# FROM PILLAR TO POST

A SERIES OF PAPERS ON ISSUES ARISING IN NEW AND EXISTING CONSUMER DEBT CASES IN LIGHT OF THE COVID 19 PANDEMIC

## PAPER THREE:

### COVID 19 PAYMENT BREAKS ON CREDIT AGREEMENTS

AN ASSESSMENT OF CURRENT RESEARCH DATA

flac
promoting access to justice

A SERIES OF PAPERS

# FROM PILLAR TO POST PAPER THREE:

## COVID 19 PAYMENT BREAKS ON CREDIT AGREEMENTS:

## AN ASSESSMENT OF CURRENT RESEARCH DATA

A SERIES OF PAPERS ON ISSUES ARISING IN NEW AND EXISTING CONSUMER DEBT CASES IN LIGHT OF THE COVID 19 PANDEMIC

FREE LEGAL ADVICE CENTRES,
NOVEMBER 2021



## TITLES OF THE SERIES OF PAPERS

—PAPER ONE—

**SETTING THE CONTEXT:**

a critical examination of data relating to consumer debt, welfare, labour market and the economy

—PAPER TWO—

**TEN YEARS AND COUNTING:**

Conclusions from a decade of attempting to resolve family home mortgage arrears in Ireland

—PAPER THREE—

**COVID 19 PAYMENT BREAKS ON CREDIT AGREEMENTS:**

An assessment of current research data

—PAPER FOUR—

**A REVIEW OF THE DEBT RESOLUTION MECHANISMS AND THE SUPPORT SERVICES:**

With final recommendations for reform

# — About FLAC —

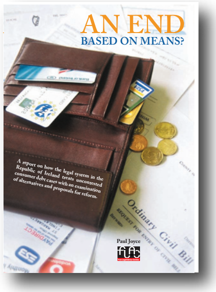
FLAC (Free Legal Advice Centres) was founded in 1969 and is one of Ireland's oldest civil society organisations. It is a voluntary, independent, legal and human rights organisation which for the last fifty years has been promoting access to justice. FLAC works in a number of ways, it:

- Operates a telephone information and referral line where approximately 12,000 people per annum receive basic legal information.
- Runs a nationwide network of legal advice clinics in 71 locations around the country where volunteer lawyers provide basic free legal advice to approximately 12,000 people per annum.
- Is an independent law centre that takes cases in the public interest, mainly in the areas of homelessness, housing, discrimination and disability.
- Operates a legal clinic for members of the Roma Community.
- Has established a dedicated legal service for Travellers.
- Operates the public interest law project PILA that provides a pro bono referral scheme that facilitates social justice organisations receiving legal assistance from private practitioners acting pro bono.
- Engages in research and advocates for policy and law reform in areas of law that most affect the marginalised and disadvantaged.

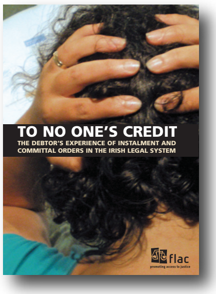
FLAC's vision is of a society where everyone can access fair and accountable mechanisms to assert and vindicate their rights. FLAC makes policy recommendations to a variety of bodies including international human rights bodies, drawing on its legal expertise and providing a social inclusion perspective.

**FLAC reports in the areas of debt and credit:**

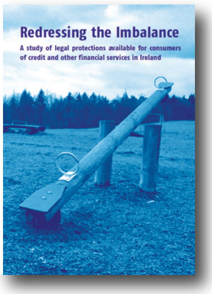
**An End Based on Means**
A Report on how the legal system in Ireland treats uncontested debt cases with an examination of alternatives and proposals for reform (May 2003)




**To No One's Credit**
The Debtor's experience of Instalment and Committal Orders in the Irish legal system (June 2009)




**Redressing the Imbalance**
A study of legal protections available for consumers of credit and other financial services in Ireland
(March 2014)




For more of FLAC's work in the area of debt law reform visit https://www.flac.ie/priorityareas/debt-law-reform/

For more of FLAC's work in the area of consumer credit law reform visit https://www.flac.ie/priorityareas/consumer-credit-law-reform/

# — About the Authors —

**Paul Joyce, BL,** works as Senior Policy Analyst with Free Legal Advice Centres (FLAC). He is the author of both of FLAC major reports on debt and the legal system in Ireland, 'An End based on Means' published in May 2003 and 'To No One's Credit' published in July 2009, and numerous policy reports and submissions. He is a former member of the Financial Services Ombudsman's Council and served as a member of the government-appointed Expert Group on Mortgage Arrears and Personal Debt in 2010. Paul is also co-author, with Dr Stuart Stamp, of FLAC's report, 'Redressing the Imbalance', a study of the legal protections available for consumers of credit and other financial services in Ireland, published in March 2014. On behalf of FLAC, he has provided technical legal support and training to staff of the Money Advice and Budgeting Service (MABS) for over two decades. He also has extensive experience in the area of employment rights. Paul is a law graduate of University College Dublin (UCD) and the King's Inns.



**Dr. Stuart Stamp** is an Independent Social Researcher and Research Associate of the Department of Applied Social Studies at Maynooth University. His main areas of interest are personal over-indebtedness and financial exclusion from an inequality and human rights perspective. He has helped to establish services in both Ireland and the UK to assist people who are over-indebted, and has worked in casework, co-ordination and support / training capacities. In recent years, Stuart has focused more on research and policy analysis on these topics. He has authored/co-authored studies for the Combat Poverty Agency, Citizens Information Board, Money Advice and Budgeting Services (MABS), Dublin Region Homeless Executive, and for the Free Legal Advice Centres (FLAC); he has further contributed to a number of national and international conferences, research projects, academic resources and policy consultations on personal debt issues.

**Paper Three:**

COVID 19 PAYMENT BREAKS ON CREDIT AGREEMENTS:
An assessment of current research data

# Contents

## RECOMMENDATIONS

### CONSUMER CREDIT LEGISLATION

**Recommendation One**—All Hire Purchase (HP) and Personal Contract Plan (PCP) providers should be properly authorised and regulated by the Central Bank of Ireland (CBI) as a matter of urgency;

**Recommendation Two**—Existing consumer credit legislation on hire purchase (incorporating PCP agreements) should be strengthened from a consumer protection perspective;

**Recommendation Three**—Consumer credit legislation in Ireland should be properly codified into one statute, rather than the current mix of legislative instruments.

### PAYMENT BREAKS AND CENTRAL BANK OF IRELAND DATA GATHERING

**Recommendation Four**—We recommend that a constituent part of the CBI payment break data should seek to monitor household welfare as well as institution solvency, but the data as presented lack utility from this perspective and should be presented in a much clearer manner with all key concepts clearly defined. More emphasis is needed on the household—or borrower—and engagement with borrowers should take place to find out the household experience of payment breaks, with due regard to data protection obligations. In the course of any such engagement, the CBI should be cognisant of its duty under Section 42 of the Irish Human Rights and Equality Commission Act 2014 to eliminate discrimination and to assess issues of equality and human rights that may have arisen for borrowers in difficulty during the pandemic.

**Recommendation Five**—We recommend that the CBI collect and publish data on amounts that were foregone on payment breaks during the course of 2020, both in terms of PDH mortgages and (unsecured) consumer credit agreements, in order to provide a better sense of potential debtor liabilities in advance of any presentation of new cases of over-indebtedness.

**Recommendation Six**—To our knowledge, at the time of writing, there are no further specific updates available from the CBI that provide detail on the evolution in 2021 of accounts that had availed of payment breaks during 2020. We recommend that the position on payment breaks should be updated accordingly, but with a greater focus on the household perspective, and a research collaboration with the Money Advice and Budgeting Service (MABS) might be usefully considered here.

**Recommendation Seven**—We recommend that the CBI explain why credit servicing and retail credit firms were not included in its family home mortgage payment break data published in early September 2020. We also recommend that any further evaluation of payment break data that might be carried out in 2021, should encompass payment breaks granted by all regulated entities to Irish households.

**Recommendation Eight**—We recommend that as part of any revised payment break evaluation that might be undertaken, the CBI should review and publish data on (i) the arrears position on the accounts in question; (ii) the nature of the breaks involved; (iii) to the extent possible, the employment status of the relevant borrowers.

**Recommendation Nine**—We recommend that, in particular, the CBI carry out an audit with lenders of what has happened in 2021 in respect of the almost 36,000 mortgage accounts that availed of payment breaks in 2020, where the mortgages were drawn down between 2004 and 2008 and fit a profile of financial vulnerability.

**Recommendation Ten**—We recommend that details be sought by the CBI and provided by lenders on the numbers and types of payment breaks applications made in the first six months of 2021 and the outcome of these applications.

**Recommendation Eleven**—We recommend that

## RECOMMENDATIONS

an evaluation of the payment break programme from the consumer borrower's perspective be undertaken. As already noted above, the state-funded Money Advice and Budgeting Service (MABS), with considerable numbers of clients in both family home mortgage and consumer credit arrears—some of whom will have availed of payment breaks—would seem an obvious service with which to collaborate to capture the debtor experience on these matters. Such an enquiry is likely to provide insights that would be helpful in terms of future policy development.

**Recommendation Twelve**—We recommend that clarification is provided by the CBI and from the Department of Finance on (i) the extent to which control of the payment break programme was entrusted to the BPFI; (ii) how widely therefore it covered the lending industry, and; (ii) whether a legislative payment break option was ever considered.

**Recommendation Thirteen**—We recommend that an explanation be provided as a matter of priority for the apparent disparity between the two sets of figures given by the CBI and the BPFI respectively concerning the payment outcomes of expired breaks at the end of 2020, and that an agreed set of figures be provided.

### BANKING AND PAYMENTS FEDERATION OF IRELAND (BPFI) DATA GATHERING

**Recommendation Fourteen**—We suggest that the BPFI consider the following:

- Carrying out a review and update of its payment break data and providing detail on the nature of the post-break extended terms offered. In terms of those who availed of payment breaks, a distinction should be made between those borrowers who were already paying less than the full contractual instalment when the break was sought and those borrowers who were making full payments prior to seeking a break;
- Clarifying which of its members were 'participating institutions' in the payment breaks covered by its data release, and particularly whether retail credit firms and credit servicing firms that are members of the BPFI are included;
- Providing further information on: (1) the outcome of payment breaks that were still in place when its dataset of early 2021 was published and: (2) the progress of accounts that did not return to full payments following the end of the break;
- Specifying how many accounts have gone into the formal arrears processes of lenders since the advent of Covid, whether following the ending of a payment break or otherwise.

## — Paper Three —

# COVID 19 PAYMENT BREAKS ON CREDIT AGREEMENTS:

## An assessment of current research data



—Paper One—

**SETTING THE CONTEXT:**

a critical examination of data relating to consumer debt, welfare, labour market and the economy

Paper One, together with a Foreword and an Introduction to the series, was published on June 30th, 2021.

Paper One can be accessed and downloaded from: –

https://www.flac.ie/publications/flac-pillar-to-post-paper-one/

—Paper Two—

**TEN YEARS AND COUNTING:**

Conclusions from a decade of attempting to resolve family home mortgage arrears in Ireland

published August, 2021.

Paper Two can be accessed and downloaded from: –

https://www.flac.ie/publications/flac-pillar-to-post-paper-two/

# 1
# SECTION

## 1. OVERVIEW

In this third paper, we move on to examine a more specific source of information that is immediately relevant to any potential increase in over-indebtedness as result of the effects of Covid; namely, recent data on payment breaks during the course of the pandemic availed of by borrowers in relation to both secured and unsecured debt obligations. This paper consists primarily of:

- i A review of three papers assembled and published by the Central Bank of Ireland (CBI) in 2020 on the basis of data provided to it by regulated entities, together with a fourth paper published in July 2021, which provides an update on the evolution of expired and extended payment breaks concerning family home mortgages at the end of 2020;
- ii Analysis of a dataset released by the Banking and Payments Federation of Ireland (BPFI), the representative body for credit institutions, in early 2021, on payment breaks offered by its member institutions in the course of 2020.

It is clear from these research pieces that a significant number of consumer borrowers availed of three month payment breaks during the early months of the pandemic (up to the end of May/June 2020). What is not clear is *why* they did so, as the data that are available focus on the numbers and the value of the loans affected but do not attempt to get behind the reasons. Thus, for example, it is not clear whether a given borrower availed of a payment break simply because one was available or because that borrower had decided, given his or her current financial circumstances, that one was needed. Neither does there seem to be any data available on the extent to which financial institutions investigated whether a payment break might be appropriate in each case. A further question which also remains is the extent to which consumer borrowers who availed of such breaks understood what a payment break involved and whether it might necessarily be in their long-term financial interests.

Within a further three months (to end September 2020), it appears that roughly half of these payment breaks had come to an end and within a further three months (to end December 2020), only a very small percentage of payment breaks remained in place. Ostensibly, the research available indicates that the significant majority of borrowers resumed full payments, at least in the case of mortgage payment breaks, but this conclusion is fairly broadly presented without detailed context and no figures appear to be available for 2021 as to: (1) how the relevant borrowers who had availed of payment breaks in 2020 have fared since,[1] and (2) whether applications were made for new payment breaks by further borrowers during this period, and whether they were accommodated by the relevant creditors.

A related critical question is how many borrowers, whether in terms of secured loans such as family home mortgages or unsecured debts including personal loans or credit card agreements, have gone into arrears *for the first time* following the arrival of the pandemic. In relation to mortgages, some limited data is available in the 2020 and Q.1 2021 quarterly figures provided by the CBI on PDH (private dwelling house) mortgage arrears on new arrears cases but as we have pointed out in Paper Two of this series, the figures provided in those datasets only present the net position, i.e. whether the number in arrears increased or decreased, rather than specifying how many went into arrears and exited arrears respectively over the period. On this question, however, it is worth noting that the last of the four CBI research papers recently published in July 2021, which provides an update of the position on payment breaks in late 2020 concerning family home mortgages only, observes that *'Of those borrowers who submitted an SFS form seeking further restructuring* (following the payment break coming to an end)*, the median borrower in receipt of a payment break was making repayments in full in the three months prior to the pandemic,* ***suggesting that the pandemic***

[1] Including during the long post-Christmas lockdown.

***was the root cause of financial distress amongst this payment break group'.*** **In relation to unsecured lending, there appear to be no published arrears data, although it seems reasonable to assume that regulated credit institutions could produce such data to the CBI upon request.**

Although these payment break datasets have their limitations, they do at least provide important context to any assessment of the risk of an increase in personal insolvency that might occur as society and the economy has re-opened and existing payment supports and protections maybe tapered or removed. Broadly, however, we conclude that these data could be significantly improved to better reflect over-indebtedness trends from the household perspective and the experience and under-standing of the relevant borrowers, and we make a set of specific recommendations in this regard aimed principally at the bodies responsible for collating them. We also make some further, more general, recommendations concerning the policy framework for establishing payment breaks.

# 2
# SECTION

## 2. AN INTRODUCTION TO PAYMENT BREAKS

In an initial response to the pandemic, mainstream banks agreed to offer payment breaks to borrowers in the form of a payment freeze for an initial period of up to three months,[2] subsequently extended to six months.[3] The application "window" eventually closed on 30th September[4] and despite being allowed by the European Banking Authority to re-open and extend it to the end of March 2021 —providing the total payment break did not exceed nine months in duration—Irish banks decided not to do so,[5] preferring instead to adopt a case by case approach, which may or may not have involved agreeing to a moratorium. As repeatedly stressed by industry representatives and member institutions at the time, there is no right to a payment break[6] and each application is considered on its merits; furthermore, interest continued to accrue on payments that are deferred, despite some political pressure.[7]

As explained in the overview above, three papers published by the Central Bank in the second half of 2020 provide some useful detail on payment breaks availed of during the first six months of the pandemic and a fourth paper released in July 2021 provides an update on family home mortgage accounts which continued to experience financial difficulties following the expiration of their payment breaks, as well as providing some useful policy context moving forward. Each of these papers is considered in turn below, in order of their respective publication dates. In addition, a dataset on payment breaks was released in early 2021 by the Banking and Payment Federation of Ireland (BPFI),[8] which summarised the position on breaks offered by its members as of the end of December 2020 across a wide range of credit agreements. This is the most up-to-date information generally available, as by this point BPFI members seem to have largely ceased offering new payment breaks to customers (as noted above), and the vast majority of existing breaks had come to an end; this release also offers some limited data on payment performance in the immediate aftermath.

**In terms of the data as presented, we find the first two of the CBI pieces to be a little confusing and generalised. The consumer debt implications of payment breaks are better teased out in the third and fourth papers which look in considerable detail at such breaks, but only in family home mortgage arrears cases. Because of the level of detail provided and the depth of the analysis in terms of the potential consumer profile, these papers are the more useful of the CBI set (see Sections 5 and 6).**

**The BPFI dataset is also useful (see Section 8), as it contains clearly set out summary information relating to the numbers and expiry of payment breaks and subsequent payment performance across a wide range of credit agreements to the end of 2020; however, it provides little specific detail on**

[2] 'Banks announce measures for customers and businesses impacted by Covid-19', RTÉ News, 18th March 2020. https://www.rte.ie/news/2020/0318/1123788-banks-Covid-19/. This initial measure was accompanied by agreement to postpone or defer court proceedings for three months, a period during which the Courts were almost entirely closed. The measure also encompassed those with 'buy-to-let' mortgages (i.e. private landlords).

[3] 'BPFI members confirm payment break extension from three months to six months for those directly impacted by Covid-19', Banking and Payments Federation Ireland, *Press Release*, 30th April 2020. This was said to include the five main retail banks, together with non-bank lenders and specialist lenders, and credit servicing firms.

https://www.bpfi.ie/news/bpfi-members-confirm-payment-break-extension-three-months-six-months-directly-impacted-Covid-19/

[4] 'Banking industry confirms new 30 September deadline date for new payment break applications', Banking and Payments Federation Ireland, *Press Release*, 18th June 2020.

https://www.bpfi.ie/news/banking-industry-confirms-new-30-september-deadline-date-new-payment-break-applications/

[5] Irish banks decline to avail of relaxed European Banking Authority rules for customers', *Irish Times*, December 2nd 2020.

[6] The European Consumer Organisation - BEUC – argued for both the right to defer payments and to have any accruing interest charges waived. See:

http://www.beuc.eu/publications/beuc-x-2020-019_letter_to_mr_dombrovskis_loan_repayment_difficulties_due_to_Covid-19.pdf

[7] See: 'Banks warned seeking profit from mortgage breaks would be 'a serious scandal'', *RTÉ News*, 9th July 2020.

[8] The BPFI is the representative body for banks, retail credit and credit servicing firms.

**accounts that have subsequently experienced difficulties and there is no up to date information available for 2021.**

**Regrettably, there is little analysis accompanying any of these datasets on the profile of borrowers who might have availed of payment breaks concerning unsecured consumer credit agreements, and the data deficiency in this area is becoming something of a recurring and worrying theme in this series of FLAC papers.**

Thereafter, there is no further published information from either the CBI or the BPFI, of which we are aware, that tracks the subsequent payment performance of accounts that had availed of payment breaks in 2020, into the first half of 2021, even though this period coincided with a long and punishing lockdown which would likely have had an impact on the financial circumstances of some of these borrowers. The closest we get to any kind of longitudinal analysis is in the fourth CBI paper which: (i) identifies a cohort of borrowers that required ***a restructuring solution following the expiration of their payment break;*** (ii) provides some numbers on the extent of this cohort, and; (iii) explains that reduced monthly repayments or deferred payment options were the preferred restructuring types offered to these borrowers upon expiry of their payment breaks. It should be emphasised that these data again relate to payment breaks on family home mortgages only.



Our focus in terms of reviewing these data remains squarely on consumer loans only. Payment breaks sought by commercial entities are outside the remit of this analysis, although it should be noted that the level of payment breaks on loans sought by small businesses may also be an important indicator of potential future financial difficulty across a range of consumer and non-consumer borrowings.

# 3
# SECTION

## 3. CENTRAL BANK PAPER—THOSE 'NEEDING' PAYMENT BREAKS

**CHART 1: APPROVED PAYMENT BREAKS FOR HOUSEHOLDS**

| | Total Number of Payment Breaks | Total Value of Payment Breaks €bn | Total Loans and Advances €bn | Payment Break Ratio |
|---|---|---|---|---|
| Mortgages | 94,708 | 14.5 | 137.6 | 10.5% |
| Irish Mortgages | 70,274 | 11.0 | 114.7 | 9.6% |
| *of which Irish* | | | | |
| — PDHs | 62,481 | 9.6 | 98.7 | 9.7% |
| — BTLs | 7,793 | 1.4 | 16.0 | 8.9% |
| Consumer loans | 94,975 | 1.3 | — | — |
| — Irish consumer loans | 52,031 | 0.7 | 10.0 | 6.6% |

Source: Central Bank of Irreland.



The first of the papers reviewed here, namely **'COVID-19 Payment Breaks – who has needed them?'**[9], formed part of a Central Bank "Behind the Data" series and was published in July 2020. It set out an explanation of a payment break as follows:

> *"Payment breaks are a postponement of some or all of a borrower's loan repayments. Such a payment break, when approved by a financial services firm, offers immediate cash flow relief for a defined period. The Bank for International Settlements highlights such payment break programmes need to achieve the provision of "credit to solvent, but cash-strapped borrowers, while keeping in mind the longer-term implications of these measures for the health of banks and national banking systems".*

It went on to outline the extent of payment breaks for households[10] as of late June 2020 as follows:

> *"191,555 payment breaks have been approved for household borrowers, representing €16 billion of loans. Almost all of household loans fall into either mortgages or consumer loans. In this context, the number of household payment breaks are split almost evenly across mortgage and consumer lending.*
>
> *In terms of value, mortgages account for over 90 per cent of household payment breaks at €14.5 billion, representing over 10 per cent of the value of outstanding mortgages... Focusing on Irish borrowers, 9.6 per cent of the total value of mortgages have approved payment breaks. Within this group, approved payment breaks for households with principal dwelling mortgages (PDHs) represent 9.7 per cent of the value of outstanding mortgages. The equivalent ratio for buy-to-let (BTL) mortgages is marginally lower at 8.9 per cent".*

Consumer (non-mortgage) loans account for almost half the number of approved household payment breaks but account for less than 10 per cent of the value at €1.3 billion. These payment breaks represent 6.6 per cent of loans to Irish resident consumers (i.e., calculated for Irish Retail Banks and Credit Unions only).

---

[9] Kearns, A. Campbell, A. Duignan, D. Greaney, D. and McDonnell, G. (2020). *COVID-19 Payment Breaks – who has needed them?* Dublin: Central Bank of Ireland, July 2020. See: https://www.centralbank.ie/statistics/statistical-publications/behind-the-data/covid-19-payment-breaks-who-has-needed-them

[10] Data is also provided separately for small & medium sized enterprises (SMEs) and corporates.

## Analysis

To help to better understand these data, it is useful to clarify two initial points as follows:

1. The 'Total Number of Payment Breaks' column in Chart 1 above (at Column Two) contains an overall figure for the number of payment breaks approved on mortgages (principal dwelling house and buy-to-let) and consumer loans respectively, and then goes on to provide a lower figure on the number of those breaks that were 'Irish'. It transpires that the remainder of these breaks were approved for borrowers domiciled *outside* the jurisdiction who borrowed from Irish lenders in the course of those lenders' operations outside of Ireland. This is discussed in further detail below.

2. The amounts set out in the 'Total Value of Payment Breaks' heading referred to in the Table (Column Three) refer to the total overall amounts owed on the loans that were subject to those payment breaks.



The target group for payment breaks envisaged by the Bank for International Settlements - namely 'solvent, but cash-strapped borrowers' - is noteworthy. What may be inferred from this is that these payment breaks were intended to cover temporary financial difficulties over a limited period that were not likely to threaten the solvency of the relevant borrowers in the medium to longer term. Thus, what may have been assumed is that these borrowers were solvent and broadly speaking did *not* have financial difficulties before the pandemic occurred, an inference somewhat contradicted by the third CBI research paper (discussed below)[11] that focused specifically on family home mortgage arrears, and which identified a significant correlation between payments breaks and previous forbearance.

The scale of the payment breaks noted in this first CBI enquiry was quite significant over a short period of approximately three months. Even though the overall balance owed in respect of secured loans considerably dwarfs that of unsecured debt, it is also notable that half of the breaks in number concern *unsecured* loans. While information on mortgages in arrears, particularly on family homes, is now quite extensive following updates to the CBI's quarterly arrears figures (already considered in the second paper in this series),[12] we must again emphasise that data on the scale, range and levels of legal activity concerning unsecured loan balances is much more difficult to access.[13]

Given the fact that payment break activity in terms of the numbers of breaks, as opposed to the overall balance owed on the loans concerned, has been evenly spread across secured and unsecured lending, it may be that some borrowers with mortgages in difficulty simultaneously sought payment breaks on unsecured loans. From the data as presented, however, it is impossible to know the extent of borrowers who had multiple payment breaks or their characteristics. It is also likely too that some borrowers who live in private rented or public housing accommodation have run into difficulty with the payment of unsecured loans and have sought and obtained payment breaks.

Moreover, what seems reasonably clear from our analysis in the first paper in this series,[14] is that unsecured debt payment difficulties may be more associated with sectors where Pandemic Unemployment Payment (PUP) claims and Employment Wage Subsidy Scheme (EWSS) payments have been most prevalent. These are sectors where earnings may be lower than average and where the rate of owner occupied homes and therefore family home mortgages may accordingly be lower.

---

[11] See Section 6.

[12] See Free Legal Advice Centres - From Pillar to Post, a Series of Papers on issues arising in new and existing consumer debt cases in light of the Covid 19 pandemic. Paper Two - Ten years and counting: Conclusions from a decade of attempting to resolve family home mortgage arrears in Ireland, 18th August 2021.

[13] Stamp, S. and Joyce, P. (2017). 'Data deficits, policy implementation disorder, the downplaying of non-mortgage debt, and the prolongation of the Irish household debt crisis', *Briefing Paper BP7-2017*, University of Birmingham: Centre on Household Assets and Savings Management.

[14] See Free Legal Advice Centres - From Pillar to Post, a Series of Papers on issues arising in new and existing consumer debt cases in light of the Covid 19 pandemic. Paper One - Setting the Context: a critical examination of data relating to consumer debt, welfare, labour market and the economy, 30th June 2021.

According to the initial payment break data, approved breaks for households with principal dwelling mortgages (PDHs) represented 9.7 per cent of the value of the total outstanding balance on such mortgages, as of late June 2020. Whilst this was not equivalent to saying that one in ten PDH mortgages were the subject of a payment break at that point, it is likely to have been of that order unless the PDH mortgages on which payment breaks were in place were larger than those with no break. It is not possible to infer either – or neither – from the data as provided.[15]

It is also notable that almost 95,000 arrangements had been put in place in respect of loans representing close to 7% of unsecured (or what the research refers to as 'consumer') loans issued solely by 'Irish Retail Banks and Credit Unions'. This is a salient finding, given the dominance of mortgage difficulties in the narrative around payment breaks over the course of the pandemic and in the general discourse around debt problems over the last decade. The reference to retail banks and credit unions would suggest that loans issued by licensed moneylenders and car finance agreements issued by unregulated entities are *not* included in these figures, and it is unlikely that there have been formal payment break facilities in relation to these loans.

Given, however, that the CBI licenses and regulates moneylenders, there appears to be no reason why it could not have enquired into payment patterns or breaks on loans from licensed moneylenders.

On the other hand, the fact that some hire purchase (and personal contract plan (PCP)) providers remain unregulated by the Central Bank or any other body continues to be a significant omission, though stated plans to rectify this anomaly appear at last to be underway at the time of writing with the publication of a Consumer Protection (Regulation of Retail Credit Firms) Bill 2021, which was recently introduced in the Dáil on June 23rd, 2021 and has, at the time of writing, been referred to Select Committee.[16] At the request of the Joint Oireachtas Committee on Finance, Public Expenditure and Reform and the Taoiseach, FLAC made a detailed submission on pre-legislative scrutiny of this proposed legislation with a number of recommendations.[17] These recommendations include that:

- **All HP and PCP providers should be properly authorised and regulated by the CBI as a matter of urgency;**
- **Existing consumer credit legislation on hire purchase (incorporating PCP agreements) should be strengthened from a consumer protection perspective, and;**
- **Consumer credit legislation in Ireland should be properly codified into one statute, rather than the current patchwork of legislative instruments.**

## Issue of Irish/Non-Irish Loans

As Chart 1 above shows, a substantial percentage of the payment break total (67,378 out of 191,555[18] or over 35%) relate to 'Non-Irish' households. There is no explanation of this term within the release. Research enquiries made to the Central Bank seeking clarification confirmed that 'Non-Irish' here means loans made by Irish credit institutions through their operations *outside the State* to borrowers based in other countries, largely as we understand it, the UK.

[15] It is worth noting that the third piece of CBI research reviewed below which focuses specifically on payment breaks on family home mortgages, reveals that one in nine (11%) such mortgages were on a payment break by 29th May 2020.

[16] The government's autumn 2020 legislative programme had included under the heading of *'Bills that are expected to undergo Pre-Legislative Scrutiny (PLS) Autumn Session 2020'* a *Consumer Protection (Regulation of Retail Credit Firms) Bill 'to ensure that any person or firm which provides credit, hire purchase, PCPs, consumer hire agreements to relevant persons will be required to be authorised as a 'retail credit firm' by the Central Bank unless they are already subject to such Central Bank authorisation'*. The Heads of this Bill, i.e. the broad outline of the proposed provisions, were the subject of pre-legislative scrutiny by the Joint Oireachtas Committee on Finance, Public Expenditure and Reform and the Taoiseach.

[17] See www.flac.ie – Consumer Credit Law Reform, Submission on Retail Credit Firms Bill 2019, March 26th 2021.

[18] The total payment break figure quoted in the first CBI report – 191,555 – is in excess of the figure of 189,683 indicated by Chart 1.

Arising out of the above, an important question that this first dataset on payment breaks raises is as follows: just who is the audience for these data? Looked at through the lens of assessing the financial health and solvency of the lenders in terms of exposure to further non-performing loans, a matter of particular concern to the CBI as regulator, all payment breaks are relevant. However, payment breaks availed of by household borrowers in the UK from a lender regulated in Ireland are not strictly relevant to an evolving consumer debt problem in this country. The summary of this dataset closed with the following commitment to provide further data:

> *"The Central Bank is evolving its data collection to support further analysis on payment breaks, including tracking the evolution of these breaks to expiration or for those payment breaks where a return to full capital and interest payments is not possible. The evolution of the aggregate position on payment breaks is uncertain and depends on the evolving public health response, as well as the timing of the recovery.*
>
> *However, the Central Bank is focused on ensuring that all financial services firms appropriately support borrowers in distress. This means financial services firms treating borrowers fairly, consistently and engaging effectively to deliver appropriate and sustainable solutions so as to facilitate as many borrowers as practical can return to repaying their debt in a sustainable way".*

While this was a welcome statement, there are questions on the extent to which it has subsequently been delivered upon. It is for example unclear how the CBI has *'focused on ensuring that all financial services firms appropriately support borrowers in distress'* as it does not engage directly with borrowers, and it is accordingly difficult to know how it has ensured that the financial services firms it regulates have delivered *'appropriate and sustainable solutions'.*



From the consumer debt perspective, the unit of analysis here—the payment break itself—is of limited value if it only tells us the number and the value of the loans but does not further enquire into *who* has availed of them and *why*, for *whom* they have worked better than others, and *what* this may indicate in terms of future financial difficulties.

As noted above, it may well be the case that one borrower has had two or even three payment breaks running simultaneously (for example in relation to a mortgage, a personal loan from a bank and a credit union loan). Such cases are likely to be more useful indicators of possible future insolvency, but this research does not suggest any steps to identify consumers who may have multiple breaks.

In the course of any such engagement with borrowers, the CBI should also be aware, that as a public body, it has a statutory obligation in the performance of its functions, under Section 42 of the Irish Human Rights and Equality Commission Act 2014, to have regard to the need to eliminate discrimination, promote equality and protect human rights. Specifically, the Irish Human Rights and Equality Commission (IHREC) states that 'All public bodies in Ireland have responsibility to promote equality, prevent discrimination and protect the human rights of their employees, customers, service users and everyone affected by their policies and plans'.

The CBI had responsibility for implementing a payment break programme, through the credit institutions it regulates, for borrowers who may have got into financial difficulty as a result of Covid. To what extent did the CBI supervise this programme to try to ensure that discrimination, for example on any of the discriminatory grounds prohibited by the Equal Status Acts, did not occur? Without engaging with borrowers and without providing a complaints mechanism, how can the CBI ensure that the public sector duty has been complied with?

**We recommend that a constituent part of the CBI payment break data should seek to monitor household welfare, but the data as presented lack utility from this perspective and should be presented in a much clearer manner with all key concepts clearly defined.[19] More emphasis is needed on the household—or borrower—and engagement with borrowers should take place to find out the household experience of payment breaks, with due regard to data protection obligations. In the course of any such engagement, the CBI should be cognisant of its duty under Section 42 of the Irish Human Rights and Equality Commission Act 2014 to eliminate discrimination and to assess issues of equality and human rights that may have arisen for borrowers in difficulty during the pandemic'.**



[19] Although the paper is titled "COVID-19 payment breaks – who has needed them?"—the "who" is not satisfactorily addressed in our view.

# 4

# SECTION

## 4. CENTRAL BANK PAPER—THOSE WHO 'CONTINUED TO AVAIL OF' PAYMENT BREAKS

**CHART 2: PAYMENT BREAK COMPARISON: END-JUNE TO EARLY SEPTEMBER 2020**

| | End June | | Early September | | | | |
|---|---|---|---|---|---|---|---|
| | Total Value of Active Payment Breaks €bn | Payment Break Ratio | Total Value of Active Payment Breaks €bn | Payment Break Ratio | €bn Change | % Change | Percentage Point Change |
| **Total** | 27.1 | 12.8% | 18.1 | 8.6% | -9.0 | -33% | -4.2% |
| *of which Irish* | 20.2 | 12.8% | 14.7 | 9.3% | -5.5 | -27% | -3.5% |
| **Total NFC** | 11.4 | 17.2% | 9.5 | 14.5% | -1.9 | -17% | -2.7% |
| — SME | 8.4 | 22.9% | 6.5 | 17.6% | -1.9 | -23% | -5.4% |
| *of which Irish SME* | 6.5 | 23.0% | 5.3 | 18.5% | -1.3 | -19% | -4.5% |
| — Corporate | 3.0 | 10.1% | 3.0 | 10.5% | -0.0 | 0% | -0.4% |
| *of which Irish Corporate* | 2.2 | 17.8% | 2.2 | 18.4% | -0.0 | 1% | -0.6% |
| **Mortgages** | 14.3 | 11.1% | 7.9 | 6.1% | -6.5 | -45% | -5.0% |
| *of which Irish PDH Mortgages* | 9.4 | 10.1% | 5.7 | 6.1% | -3.7 | -39% | -4.0% |
| *of which Irish BTL Mortgages* | 1.4 | 10.6% | 1.0 | 7.6% | -0.4 | -29% | -3.0% |
| **Consumer Loans** | 1.2 | 8.6% | 0.6 | 4.2% | -0.6 | -52% | -4.4% |
| *of which Irish Consumer Loans* | 0.7 | 6.5% | 0.5 | 4.3% | -0.2 | -32% | -2.2% |

Source: Central Bank of Irreland.



### Details

The commitment to follow up on the first piece of payment break research was met by a second CBI paper which compared the end of June 2020 figures with those of 4th September 2020 for credit institutions (July 31st in respect of payment breaks provided by credit unions).[20] However, the categories considered in this piece are broader and include not just payment breaks on loans for households, but also small & medium sized enterprises (SMEs), and corporate entities. Thus, these papers are not strictly speaking comparing like with like.

As of 4th September, 2020 (or again July 31st in the case of payment breaks offered by credit unions), the CBI reports there to have been 114,154 active payment breaks in place ***across all borrower groups***, with the total amount owed on the associated loans representing €18.1 billion in value, equal to 8.6% of total outstanding loan balances (Chart 2). Note again that value here refers to the total balances outstanding on the relevant loans, and not the cumulative value of the amounts that went unpaid as a result of the breaks.

[20] Kearns, A. Campbell, A. Duignan, D. Greaney, D. and McDonnell, G. (2020). 'COVID-19 Payment Breaks – who continues to avail of them?' Dublin: Central Bank of Ireland, September 2020.

https://www.centralbank.ie/statistics/statistical-publications/behind-the-data/covid-19-payment-breaks-who-continues-to-avail-of-them?

This value amounts to a 33% reduction (or €9 billion loan value) decrease from a peak at end-June 2020 when this paper suggests there were 220,546[21] active payment breaks across all borrower types representing €27.1 billion in loan balances. Thus, while the number of payment breaks almost halved (from 220,546 to 114,154), the total amount owed on loans subject to payment breaks only decreased by one-third, suggesting that larger loans were slower than smaller loans to exit payment breaks.

Following clarification from officials in the CBI, it is again our understanding that the reference to *all* borrowers includes those resident *outside* the State, principally in the UK, who have obtained a payment break in respect of a loan from a lender regulated by the CBI in Ireland which also conducts business in other jurisdictions. This explains how a business or a household is classified as 'Non-Irish' in the respective categories set out below in Chart 2.[22] Again, it would have been useful had this been specifically explained in the summary of the dataset.

Irish resident businesses (non-financial corporations or "NFC"s) and households account for over 80% of the total value of approved payment breaks to all households and NFCs, with 'Non-Irish' businesses and households presumably accounting for the remainder. Thus, a stated 90,539 (out of the overall total of 114,154) domestic payment breaks remained active as of 4th September, representing a 27% reduction in the value of breaks since the end of June. These represented a total value of €14.7 billion loans, equivalent to 9.3% of all outstanding loan balances.

[21] This figure of 220,546 at end June 2020 is greater by 28,891 than the 191,555 payment breaks that the first paper suggested had been approved for household borrowers, also at end June 2020. It seems likely therefore that the difference in number here reflects payment breaks for SME's and Corporates.

[22] Namely: Non-Financial Corporations (NFC) comprising Small and Medium Enterprises (SME's) or Corporates; Mortgages comprising PDH Mortgages and BTL Mortgages; and Consumer Loans, i.e. consumer credit loans.

## Status of payment breaks on family home mortgages and consumer loans

A further chart (Chart 3 below) provides data on the evolution and status of payment breaks as of September 2020 and here the data on domestic family home mortgages and consumer loans is again of primary relevance to our focus:

In terms of family home (or 'Irish' PDH) mortgages, 7% were still on a first payment break, 44% had a payment break extended and in 49% of cases, the payment break had expired. As regards 'Irish' consumer loans, 26% of the total were still on a first payment break, 35% had a payment break extended and in 39% of such cases, the payment break had expired.

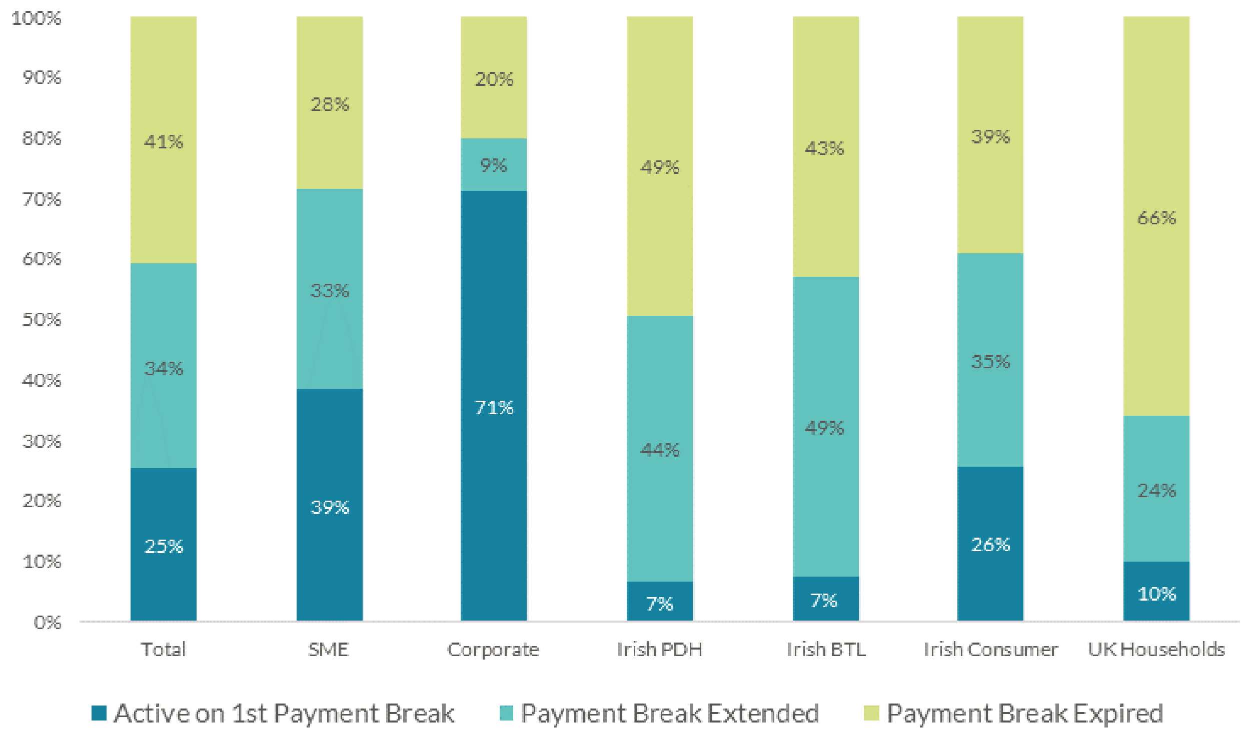
What is not clear from this Chart is whether these percentages are expressed in terms of the *numbers of accounts* or the *total balance owed* on the relevant loans. From a consumer debt perspective, it should be the former but it is more likely to be the latter, given that the overall loan balance affected (rather than the number of accounts) has been the more dominant criterion used in the remainder of the figures here and in the previous CBI piece reviewed above.

## Commentary

The reduction in the overall outstanding balance on consumer loans with payment breaks indicates that during the 2020 summer period following the relaxation of the first lockdown, a significant number who had been availing of payment breaks returned to payments, an indication that a number may have resumed their work or business following a period of lay-off from their employment or business-closure. Whether they returned to *full* payments - and whether, perhaps more critically, those payments have been sustained - is discussed in further detail below.

As with the June 2020 paper, this subsequent paper while useful as far as it goes, again fails to address the "who" question as fully as it might in our view. The associated commentary closes with the following assessment:

CHART 3: STATUS OF PAYMENT BREAKS, SEPTEMBER 2020




Source: Central Bank of Irreland.



*"Overall, the vast majority of borrowers with expired payment breaks are returning to making full repayments. For instance, of the expired payment breaks within retail banks, over 90% have returned to full repayments on the existing term. This current high share is to be expected as borrowers typically will not yet have reached the maximum duration of the payment break schemes. In effect, borrowers are expiring early because they can resume payment".*[23]

From what we can see, this figure of 90% 'returning to full payments' is presented without any breakdown across the range of agreements in the dataset or any further contextual data to support it, and may be information that was taken at face value from the reporting institutions. Thus, it would appear that this 90% 'return to full repayment' figure is averaged across all types of loan covered in this dataset – SME, Irish Corporate, Irish PDH (Principal Dwelling House), Irish BTL (Buy-to-Let), Irish Consumer and UK households. In addition, the use of the term 'retail banks' in the above quote is not explained. This would appear not to cover credit unions and it seems unlikely that it covers credit servicing firms or retail credit firms either.

[23] Ibid.

The conclusion that *'In effect, borrowers are expiring early because they can resume payment'* is presented without explanation, and other factors that may have influenced payment resumption are not considered. For example, did consumer borrowers in particular properly understand what a payment break was in the first place, i.e. that this was not a concession on the lender's part but a temporary forbearance for which the borrower would ultimately have to pay? Once this was understood, it is conceivable that some borrowers may have decided it would make more financial sense to try to resume payments sooner rather than later, since the payment break was actually costing them money in the form of increased interest on the amounts unpaid during the payment break, leading to either an increase in the amount of future instalments or an extension of the term of the agreement. In addition, payment resumption may in some cases have been funded by savings rather than income, in order to avoid going into arrears. Again, the data as presented do not address these possibilities.

There is a sense of 'there is nothing to see here' about this conclusion. It is quite conceivable that 90% of such borrowers with expired payment breaks did indeed return to full repayments on the existing term because they could resume payment. If this was indeed the case, so much the better. The point is that this conclusion is arrived at without context and does not appear, from the summary provided, to take account of the difficulties that many households face even in the best of times to balance their budget.

And what of the 10% who did not return to full payment following the expiration of their payment break? No further information is provided about how their cases evolved thereafter. A final and important point to note here is that this 90% figure only concerns expired payment breaks. The situation of those whose payment break was still active or was extended is unclear.

Moreover, subsequent events suggested that the relative optimism of this September 2020 assessment might have been a little premature. Following the second surge of the virus, a further lockdown to the strictest Level 5 of the Government's Covid 19 public health restrictions was announced on 21st October (2020) for a six-week period ending on December 1st (2020). The reality of the rapidly changing scenarios posed by Covid was also reflected in the announcement in response to the second lockdown that resulted in immediate upward adjustments being made to the rates of the Pandemic Unemployment Payment (PUP) and the temporary wage subsidy scheme to try to compensate for some of the anticipated loss of income.

This phase saw the full or partial closure or re-closure of a number of businesses, especially in the retail, service and hospitality sectors, leading to further lay-offs, short time working and even redundancies. This may also have meant that some borrowers, who had returned to payments by 4th September (when this follow-up research was published) following a payment break, may have needed to avail of a second payment break and others may have needed to avail of a payment break for the first time. However, the availability of payment breaks after the end of September 2020 was substantially curtailed at the election of the Banking and Payments Federation of Ireland.[24]

Any attempt going forward to assess the potential risks of new cases of over-indebtedness from these early CBI data on payment breaks is therefore a difficult task. A notable drawback again is that the payment breaks are expressed in terms of the total value of the outstanding balances on the loans affected, rather than the total value of the payments not made by borrowers as a result of having to avail of a break. It would be useful to have some idea of the total amount that went unpaid, together with the average amounts unpaid per family home mortgage account or consumer loan account subject to a payment break, during the relevant period. After all, this is the money to be added to the balance the borrower owed at the end of the payment break, increasing his/her liability at a time of financial uncertainty for many borrowers; furthermore, it is the amount the relevant lender would look to recover in the event of the borrower's default.

***We recommend that the CBI collect and publish data on amounts that were foregone on payment breaks during the course of 2020, both in terms of PDH mortgages and (unsecured) consumer credit agreements, in order to provide a better sense of potential debtor liabilities in advance of any presentation of new cases of over-indebtedness.***

***To our knowledge, at the time of writing, there are no further specific updates available from the CBI that provide detail on the evolution in 2021 of accounts that had availed of payment breaks during 2020. We recommend that the position on payment breaks should be updated accordingly, but with a greater focus on the household perspective, and a research collaboration with the Money Advice and Budgeting Service (MABS) might be usefully considered here.***

24 For more detail see Section 8 below

# 5
# SECTION

## 5. Central Bank paper - Payment breaks on residential mortgages

### Introduction

The third research piece on payment breaks conducted by the CBI focuses uniquely on residential mortgages i.e. mortgages on family homes occupied by the borrower/s. It provides considerable statistical detail in the form of an array of tables and is by far the most detailed of the CBI datasets, involving a closer examination of the characteristics of payment breaks on family home mortgages under a number of headings.[25] ***A comparable analysis on the payment breaks relating to (unsecured) consumer credit agreements would have been, and still would be, similarly useful.***

The paper notes that over 67,000 payment breaks applied to owner-occupier mortgages in Ireland (there is no 'Irish', 'Non-Irish' confusion here) at the five major retail banks as of 29th May 2020. This amounts to a significant percentage of the total of family home mortgages across the country (around 1 in 10) and may be illustrative of the extent of the dramatic impact of the first wave of the pandemic on economic activity and, accordingly, on the apparent incapacity of a number of borrowers to maintain mortgage payments. Although this is the third of the four research pieces to be published in terms of date (September 2020), the data and conclusions arrived at are confined to an assessment undertaken at the end of May 2020.

However, the introduction to the paper does note that '*by late August 2020, Central Bank of Ireland internal estimates suggested that more than half of the payment breaks remained in place*' – a ballpark figure here therefore might be in the region of 35,000 household mortgage accounts. In turn, as will be reviewed below,[26] a subsequent dataset published by the Banking and Payments Federation of Ireland (BPFI) has suggested that by the end of December 2020, some four months later, there remained only 2,000 payment breaks in place on family home mortgage accounts offered by its members.

### The omission of retail credit and credit servicing firms

Before looking at the number and detail of payment breaks reviewed in this third CBI paper, an important caveat with the data as presented is that it only covers family home mortgages owned by the five major retail banks,[27] and specifically explains that it does *not* include loans owned by retail credit firms and credit servicing firms, even if banks originally issued those mortgages. The data description goes on, nevertheless, to make it clear that:

> *"Non-bank mortgages in Ireland are more likely to have a history of mortgage arrears, because many banks sold some of their non-performing loans (NPL) to non-banks, albeit to a limited extent. For this reason, the mortgages assessed in this note tend to have experienced lower arrears rates than the average mortgage in Ireland".*[28]

At least this is a candid admission that the picture presented is not complete and that a number of mortgage accounts more likely to have an arrears history are not included in this analysis. However, we might take issue with the suggestion here that family home mortgages have only been sold by banks to non-banks to 'a limited extent'. One way or another, it is extremely concerning that there is no explanation provided as to why data was not obtained from these non-Bank entities. Both retail credit firms and credit servicing firms are specifically regulated by the CBI and great emphasis was placed by both government and the CBI at the time they became regulated on assuring relevant borrowers that they were entitled to the same protections as borrowers with the five main retail banks.[29] Why therefore is there no information included from retail credit firms and credit servicing firms on payment breaks? Is it because they were not asked, is it

[25] Gaffney, E. and Greaney, D. (2020). 'COVID-19 Payment breaks on residential mortgages', *Financial Stability Notes*, Vol. 20, No.5, September 2020, Dublin: Central Bank of Ireland.

[26] See Section 8 below for further detail.

[27] AIB, BOI, PTSB, KBC and Ulster Bank.

[28] Ibid, p3.

[29] See the Consumer Protection (Regulation of Credit Servicing Firms) Act 2015, as amended by the 2018 Act of the same name.

**TABLE 1: NON-BANK ENTITIES AND PDH MORTGAGES IN ARREARS: DECEMBER 2017 TO DECEMBER 2020**

| | December 2017 | December 2018 | December 2019 | December 2020 |
|---|---|---|---|---|
| % of all PDH mortgages | 7% | 11.5% | 12% | 13% |
| % of all PDH mortgages in arrears | 20% | 27% | 36% | 43% |
| % of all PDH mortgages in arrears >90 days | 24% | 30% | 42% | 50% |
| % of all PDH mortgages in arrears >720 days | 25% | 34% | 48% | 57% [30] |

Source: Central Bank of Irreland Mortgage Arrears Statistics, December 2017-2020.

because they were asked but declined to respond, is it because they did not offer payment breaks, or is there some other explanation?

***We recommend that the CBI explain why credit servicing and retail credit firms were not included in its family home mortgage payment break data published in early September 2020. We also recommend that any further evaluation of payment break data that might be carried out in 2021 (as already recommended above), should encompass payment breaks granted by all regulated entities to Irish households.***

The significance of this omission in terms of providing any potential assessment of the increased levels of mortgage arrears on family homes arising from Covid can be gleaned from Table 1 which tracks the substantial increases in the percentages of mortgages, and in particular mortgages in difficulty, owned by 'Non-bank entities' in recent years. Over the three year period from end 2017 to end 2020, each of the following broadly *doubled*:

- The overall percentage of family home mortgages owned by non-bank entities;
- The percentage of such mortgages *in arrears* owned by these entities;
- The percentage of such mortgages *in arrears of over 90 days;*
- The percentage owned by these entities in the hardest to resolve category of *over two years in arrears*.

The prospect of more loan sales, as a result of bank restructuring and further impaired family home mortgage accounts impacted by Covid in 2021 and beyond, is also a major cause of concern at this point.[31]



[30] As of December 2020, non-bank entities held 68 per cent (3,566) of PDH accounts with arrears of over ten years (5,266). See: https://www.centralbank.ie/docs/default-source/statistics/data-and-analysis/credit-and-banking-statistics/mortgage-arrears/residential-mortgage-arrears-and-repossession-statistics-december-2020.pdf?sfvrsn=4 p.3.

[31] For example, the *Irish Times* (Joe Brennan and Colin Gleeson) reported on February 19th 2021 that AIB announced that it had agreed to sell a portfolio of mainly deep-in-arrears mortgages to US investment group Apollo for a discounted price of €400 million, with Mars Capital Finance Ireland contracted to service the loans. The total original value of the loans in the portfolio, known as Project Oak, was about € 1 billion. It was further reported that some 92 per cent of the loans are against owner-occupied homes, with the remainder secured against buy-to-let and mixed-use properties. The portfolio extends across about 3,500 properties. The average loan stands at €300,000 and is in arrears on payment of about €95,000.

## Numbers of payment breaks

In terms of Principal Dwelling House (or family home) mortgages from the five major retail banks only therefore, the following data is presented:

- A total of 67,334 payment breaks were in place on 29th May 2020 amounting to about one in ten (10%) of existing PDH mortgages.
- One in three of these were in respect of first-time buyer mortgages;
- Two in every three were subsequent / second-time buyers.[32]

As some borrowers will have more than one mortgage account on their family home and may, in turn, have a payment break on each facility, an estimate is provided by the authors that the 67,334 payment breaks corresponds to 54,282 households. It is not clear what exact basis has been used for this calculation, but it is roughly similar to that employed by the CBI concerning the quarterly data it publishes on accounts already in arrears, where an informal estimate of 1.2 accounts per household is used as a yardstick.[33]



According to those Central Bank mortgage arrears statistics, a total of 56,792 family home mortgage accounts were in arrears at the end of Q.2 2020 (or 47,327 households using the 1.2 account per household ratio).[34] There were therefore more accounts with payment breaks as of end of May 2020 (67,334) than there were accounts in arrears (56,792) at the end of June 2020 (at more or less the same time). And again, it is important to remember that the payment break numbers here only include accounts with the five major retail banks, whereas the accounts in mortgage arrears not only include the five major retail banks but also include credit servicing and retail credit firm accounts in arrears. As is abundantly clear from Table 1 immediately above, these firms now own or service a growing percentage of the accounts in arrears on behalf of vulture/investment funds.

It is not clear from the data how many accounts were in *both* groups, i.e. accounts that both availed of a payment break and were already classified as being in arrears, a point which will be expanded on below in more detail. What does seem clear based on these numbers is that, but for the facility of payment breaks, the number of family home mortgage accounts classified as being in arrears by the CBI would have increased significantly in the second quarter of 2020.

This is not perhaps as dramatic as it may sound; depending on how the evolving economic situation impacts on the households affected over the next 12-24 months, many of the payment break cases may prove more straightforward in principle to resolve than the legacy mortgage arrears cases. However, it as yet unclear just how many resumed full payments (also incorporating the amount that went unpaid during the payment break) when the payment break came to an end and whether those payments were subsequently sustained; this is important information for policy development. Also unknown is: (i) the extent to which further lockdowns[35] may have impacted a second time on those who had already availed of a payment break and; (ii) whether these subsequent lockdowns gave rise to new cases of financial difficulty.

## Forbearance and performance history

Earlier, we noted the explanation of a payment break referred to in the CBI's first research piece, adopted from that used by the Bank for International Settlements as *'the need to achieve the provision of credit to solvent, but cash-strapped borrowers'*.[36] We suggested that what

[32] The precise figures were 23,804 (35%) first time buyers and 43,530 (65%) subsequent /second-time buyers respectively. Note that 74,072 Buy-to-Let mortgages are also included separately in the Note.

[33] See Paper Two in this FLAC 'Pillar to Post' series, 'Ten Years and Counting' - Conclusions from a decade of attempting to resolve family home mortgage arrears in Ireland, published 18th August 2021, p18.

[34] https://www.centralbank.ie/docs/default-source/statistics/data-and-analysis/credit-and-banking-statistics/mortgage-arrears/residential-mortgage-arrears-and-repossession-statistics-june-2020.pdf?sfvrsn=6

[35] From 21st October to December 1st 2020 and from Christmas 2020 to May 2021.

[36] Ibid.

might be inferred here is that payment breaks are intended to cover temporary financial difficulties over a limited period to borrowers who broadly speaking did not have such difficulties before the pandemic occurred.

However, it is clear from this dataset under the heading of 'Forbearance and Performance history' that a significant number of borrowers seeking payment breaks *have* experienced previous repayment difficulties. Thus, it is reported that, on average:

> *"Over 20 per cent of owner occupier mortgage exposure has a history of forbearance or modification' and that 'the share of payment break residential mortgages with a forbearance history is double the overall average, at 40 per cent… therefore, loans with forbearance history are more than twice as likely to have a payment break when compared to loans that were never forborne."* [37]



This finding therefore raises the important question of how many payment breaks were sought and provided to borrowers who were *already in arrears* at the time the pandemic hit, and who may therefore have sought a payment break from an existing 'alternative repayment arrangement' that already involved the payment of less than the monthly contractual instalment. In such a scenario, those arrears would clearly worsen as a result, especially if the payment break was in place for the full potential duration of six months. An answer of sorts to this question is provided in the release which records as follows:

[37] Ibid, p.4.

**TABLE 2: PAYMENT BREAKS BY FORBEARANCE HISTORY OF LOANS**

| | Balance (€bn) | Payment break balance (€bn) | % |
|---|---|---|---|
| **Total** | **84.66** | **9.39** | **11** |
| Never forborne | 66.13 | 5.79 | 9 |
| Previously forborne | 10.11 | 1.80 | 18 |
| Currently forborne | 8.42 | 1.80 | 21 |

Source: Central Bank of Irreland.

It is again notable in this Table that the figures are expressed in terms of the total value of the outstanding balances on the relevant loans subject to payment breaks, rather than the amounts unpaid as a result of the breaks themselves. Thus, the overall cumulative amount owed to lenders on accounts that were the subject of payment breaks was €9.39 billion, equivalent to 11% of the amount owed on family home mortgage accounts (and buy-to-let accounts[38]) in total. In respect of accounts representing over 60% of this amount there was *no* forbearance history, i.e. the relevant accounts had no previous discernible payment difficulties. In respect of a further fifth of the total, there *was* a previous forbearance, i.e. a payment problem in the past but presumably not in the present. Lastly, in respect of the final fifth, there appears to have been forbearance measures *already in place* when the payment break was sought. Thus, it seems clear from this last figure that some payment breaks, albeit a minority, were sought by and granted to borrowers whose accounts were in *existing* arrears.

**TABLE 3: PAYMENT BREAKS BY NON-PERFORMING LOANS (NPL) DEPTH OF ARREARS**

| | Balance (€bn) | Payment break balance (€bn) | % |
|---|---|---|---|
| **Total** | **84.66** | **9.39** | **11** |
| Performing | 77.63 | 8.25 | 11 |
| NPL: 0 days past due | 2.85 | 0.64 | 22 |
| NPL: 1-90 days past due | 0.71 | 0.19 | 26 |
| NPL: 91-365 days past due | 0.91 | 0.16 | 18 |
| NPL: 366-720 days past due | 0.48 | 0.05 | 11 |

Source: Central Bank of Irreland.

[38] Note that 6,626 buy-to-let mortgage accounts are included here in addition to the 67,334 PDH accounts.

In terms of greater detail on the accounts already in arrears availing of a payment break, the report notes with reference to the figures in Table 3 above that *'the highest frequencies of payment breaks are among NPL (non-performing loans) in arrears but less than three months past due.*

*Many of these loans have active forbearance measures.'* However, this 'highest frequency' is marginal and does not set out the actual number of payment breaks, but rather the total balance owed on the mortgages in this category subject to a break expressed as a percentage of the overall balance on loans in this category, i.e. 26% or €0.19 billion out of €0.71 billion. While this does suggests a definite trend amongst comparatively mild arrears cases to seek a payment break, it is also the case that payment breaks have been sought and obtained in the more serious arrears categories.[39]

Reference is also made in Table 3 to non-performing loans (NPL) that are zero days past due. However, it is not specifically explained how an account that is zero days past due can be said to be non-performing. It may be, however, that this category relates to accounts where a payment arrangement less than the contractual instalment is put in place pro-actively before a payment is missed and before the account goes into arrears, but in the absence of a specific explanation, this is speculation. It would be useful therefore if the CBI clarified exactly what a 'non-performing loan 0 days past due' means.

Ultimately, the fact that the figures provided in this Table focus on total balance amounts and percentages thereof, means that we are not told: (i) the number of accounts (or households) in each category (and sub-category) that availed of a payment break; and (ii) the average amounts that were added to the outstanding balance of these accounts each month as a result of the break in payment. In summary, this would again suggest that institutional rather than consumer exposure is what is being measured here. Given that operating in the best interests of the consumer is also an important part of the CBI's function,[40] this might be remedied in revised datasets into the future.

A useful starting point would be to clarify how many payment breaks were obtained on family home accounts that: (i) were already in arrears; (ii) were not already in arrears, or; (iii) were not classified as being in arrears but were in a payment arrangement at the time of the application. It would also be useful to find out whether all payment breaks involved a complete moratorium on payment or whether some may have involved a partial payment of an agreed amount. Accounts already in arrears and entering a break that involves no payment are clearly at greater risk of developing a deeper arrears problem. On the other hand, those not in arrears in the first place and making a partial payment stand a much better chance of resolving their arrears difficulty quickly, once their payment capacity improves.

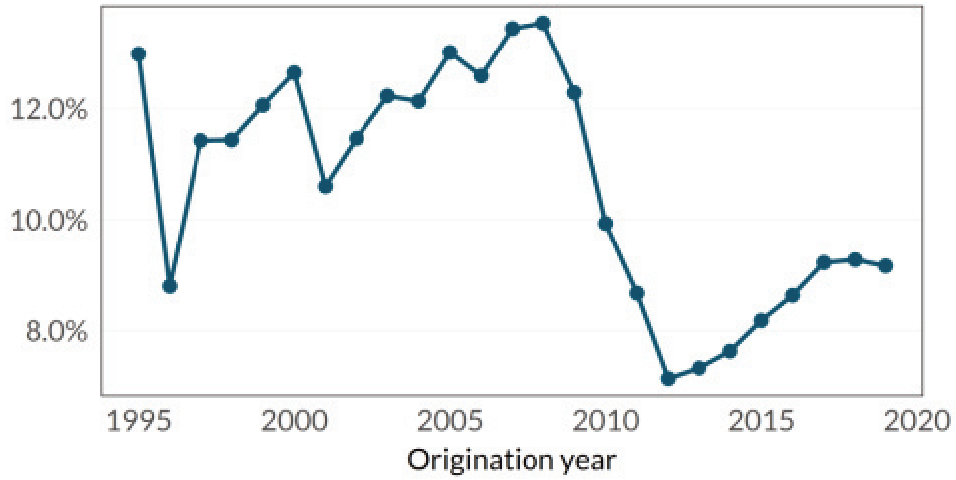
Finally, it would be useful for policy purposes to attempt to profile the employment status of at least a representative sample of borrowers who have availed of payment breaks, in terms of the number who are employees working under a contract of employment and those who may be self-employed.

***We therefore recommend that as part of any revised payment break evaluation that might be undertaken, the CBI should review and publish data on (i) the arrears position on the accounts in question; (ii) the nature of the breaks involved; (iii) to the extent possible, the employment status of the relevant borrowers.***

[39] Ibid, p.4.

[40] The mission of the Central Bank of Ireland is to serve the public interest by safeguarding monetary and financial stability and by working to ensure that the financial system operates in the best interests of consumers and the wider economy – See Page 8, Central Bank of Ireland Strategic Plan 2019-2021.

**CHART 4: PAYMENT BREAK PROPENSITY BY YEAR OF ORIGINATION**




Source: Central Bank of Irreland.

## Loan origination date and borrower age

The information set out under this heading is particularly significant in our view and signals that the damage done in the era of irresponsible mortgage lending, particularly from 2004 to 2008 immediately before the Global Financial Crisis, continues to impact on households well over a decade later.

**Chart 4 above reveals that around 53% per cent of all PDH payment breaks in the analysis (close to 36,000) were reported to relate to mortgages originated between 2004 and 2008,**[41] mortgages that were anywhere from 12 to 16 years old at the point the research was conducted. Many of these mortgages were drawn down at a time when property prices were at inflated levels and access to rent controlled, means-tested public housing had diminished due to the State's primary focus on the private sector as the principal source of housing stock. Around this period, potential borrowers also found themselves competing with buy-to-let investors to purchase a dwelling in which to live, and had no option in many instances but to borrow multiples of their annual income to get on the property ladder, at a time when there were no limits imposed by the CBI on the multiples of income that could be borrowed.

For further and related context, the CBI analysis also suggests that borrowers who are now between 50 and 60 years old are more likely to have a payment break in place than younger cohorts as they were more likely to have drawn down their mortgages in that mid-2000's period.[42]

It is perhaps unsurprising that many such accounts became the subject of payment breaks as the financial pressures brought on by Covid intensified for many such households where incomes may have already been limited. There are echoes in these figures of a study conducted by South Mayo Money Advice and Budgeting Service, first published in August 2016,[43] and updated and expanded in November 2017.[44] The first part of that study found that, of a random sample of 50 clients of South Mayo MABS in long-term home mortgage arrears as of May 2016, only n=9 (18%) had long-term repayment

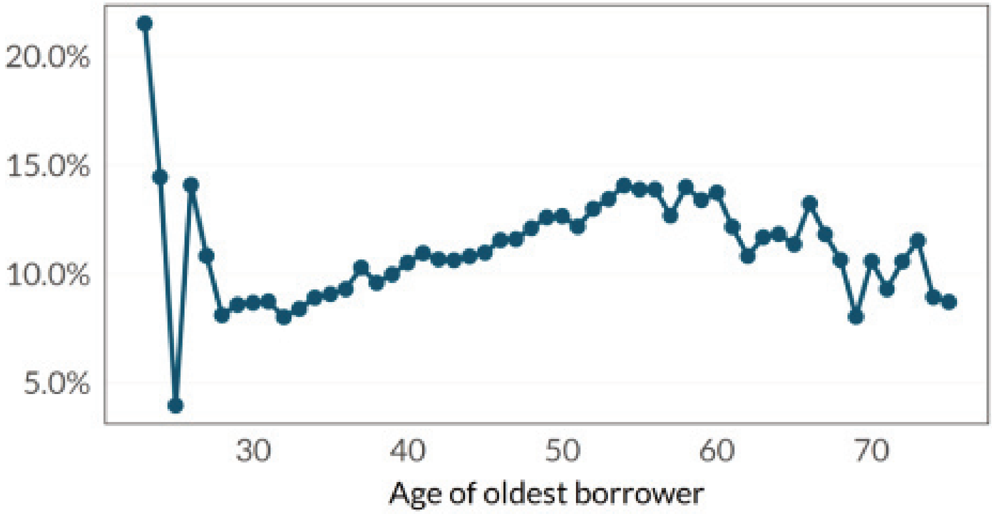
[41] Ibid, p5.

[42] Notably, it also seems that payment breaks are more common than average amongst the very youngest borrowers, aged under 28. However, the sample in this age group is only 1,000 mortgages.

[43] South Mayo MABS (2016). *An Analysis of Mortgage Arrears Among South Mayo MABS' Clients*. Castlebar: South Mayo Money Advice and Budgeting Service (assisted by Dr Stuart Stamp).

[44] South Mayo MABS (2017). *Mortgage Arrears among South Mayo MABS' Clients: April 2016 v September 2017 'Substantive engagement but for what return?'* Castlebar: South Mayo Money Advice and Budgeting Service in conjunction with Dr. Stuart Stamp and Paul Joyce.

**CHART 5: PAYMENT BREAK PROPENSITY BY AGE OF OLDEST BORROWER**




Source: Central Bank of Irreland.



arrangements in place with their lender. By September 2017, of the same sample, long-term arrangements were in place in only n=15 (30%) of the cases, demonstrating that the situation had not significantly improved.

An important finding of the second part of the MABS study was that those borrowers finding it most difficult to get a permanent or semi-permanent resolution of their mortgage arrears situation were those whose mortgages were drawn down closest in time to the 'Crash', i.e. the same period from 2004 to 2008 identified in the Central Bank paper as the most prevalent category for payment breaks. The South Mayo MABS data further suggested that at drawdown of the loan, these borrowers were by and large part of a cohort with lower than average net incomes and a larger than average number of dependants and therefore paying higher percentages of their net incomes on housing costs. The final report concluded that *'it is a cohort perhaps emblematic of those who might not have got a mortgage prior to 2005, but who were forced into the private housing market by institutional and/or societal pressures coupled with a then lack of social housing options'*.[45]

## Payment breaks by borrower profile and sector

As already suggested, this third piece of CBI research does not sufficiently distinguish in our view between borrowers who were already in arrears, those who may previously have been in arrears and those with no arrears history. None-theless, it does firmly suggest that *'familiarity with forbearance may make borrowers more inclined to seek a payment break'* and speculates that *'this would partly explain why new borrowers with loans issued in the 2010s were less likely to apply for payment breaks'*. This is in turn qualified by the interesting and important observation that *'over the longer term, under-writing standards also varied, and borrowers in the 2010s may simply have been less likely to work in roles affected by Covid-19 in 2020'*.[46] We suggest that the implication here may be that due to a more restrictive approach to lending post-Crash, borrowers who drew down mortgages in the post-2010 period are likely both to have higher incomes and to work in sectors less affected economically by the pandemic.

As noted in the first paper in our series, firm evidence is already available that the financial hardship brought on by the Covid pandemic is far

[45] Ibid, p.30.

[46] Ibid, p.6.

from evenly spread.[47] Certain sectors are particularly adversely affected and it is likely that SME owners and staff employed in these sectors who have family home mortgages may have been more likely to require payment breaks. In turn, it is conceivable that a number of these accounts may have already had a history of forbearance, particularly where the mortgage was drawn down in the final years of the boom and the borrower/s were lent high multiples of their income to get on to the housing ladder. There are some notable strands of evidence in this third CBI piece of research that provide additional context in this regard, including the following:

- Most counties with high rates of payment breaks also had high rates of Pandemic Unemployment Payment (PUP) claims,[48] suggesting a strong and logical correlation between a reduction in income and a payment break application;
- Meath, Louth and Wicklow, described in the research as '*Dublin commuter counties with many mid 2000s mortgages*' had higher than average levels of payment breaks. So too did Kerry, Donegal and Wexford, three counties with large levels of employment in the accommodation and food services industry. These counties formed the top six for payment break rates across the country;[49]
- The loan-to-income ratio (LTI) of borrowers at drawdown is closely correlated with the tendency of loans to have a payment break, with the rate of payment breaks doubling between a mortgage loan of two times LTI and 4.5 times LTI.[50] This suggests a strong and again understandable correlation between lower earnings rates and payment breaks;
- Loans with a high current loan to value (LTV) also tended to have more payment breaks, with few loans close to maturity (where the LTV may be very low) requiring a payment break. In addition, the smallest loans by LTV tend to have the lowest shares of payment breaks, even where there are many years left to run on the mortgage.

Finally, further important context on the sector of the economy as a predictor of payment breaks is provided by an additional Financial Stability Note (FSN), also released by the CBI, at the end of May 2020. In this Note entitled 'Which firms took Covid-19 payment breaks?',[51] the focus is on an analysis of breaks sought by small firms and businesses rather than by consumer borrowers, but it also remarks on the correlation between the two. The press release which accompanied the publication of this Note concludes as follows:

> *'Borrower sector is the strongest predictor of payment break uptake by Irish firms. Sectors with a high share of employees either on wage subsidies or temporarily laid-off had the highest payment break rates. The highest payment break rates were in the Accommodation & Food, Arts, Entertainment & Recreation, and Other Services sectors. 47% of Accommodation & Food balances had a payment break, rising to 59% when looking at SME balances in isolation. In addition, 45% of Arts, Entertainment & Recreation SME balances had a payment break'.*



[47] For example, the Economic and Social Research Institute (ESRI) in its Quarterly Economic Commentary of Autumn 2020 highlighted the unevenness in the impact of COVID-19 on the Irish economy. It suggests that many sectors of the domestic economy have been severely affected with wide scale job losses or loss of earnings in areas such as accommodation, food, arts and entertainment. On the other hand, the ESRI states that exports held up very well in 2020 and that this was driven by the strong performance of medicinal and pharmaceutical products and computer services. See McQuinn, K. O'Toole, C. Allen-Coghlan, M. and Coffey, C. (2020). *Quarterly Economic Commentary, Autumn 2020.* Dublin: Economic and Social Research Institute.

[48] Ibid, p.8.

[49] Ibid, p.7.

[50] Ibid, p.8.

[51] Duignan, D. and McGeever, N. *Which firms took COVID-19 payment breaks?* Financial Stability Notes, Vol.20, No.6. Dublin: Central Bank of Ireland.

It is notable that the vast majority of the businesses that availed of payment breaks *'did not show explicit signs of vulnerability prior to the pandemic'* unlike consumer loans where payment breaks were to some extent correlated with a history of forbearance. The loans covered by this analysis of firms are dominated by leasing, term loan and hire purchase liabilities, and together these three loan types amounted to 95% of the payment break balances. A total of 65% of the loans covered by this Note were secured, mainly by commercial real estate.

## Commentary

In our view, some of the findings in this third CBI paper warrant further examination and research, and the authors are to be commended for a piece of work that delves deeper into the phenomenon of payment breaks and comes up with valuable insights that may assist in future attempts at resolution. It is also apparent that this insight could not have been achieved without access to a reasonably wide bank of data from the retail banks concerned, proof perhaps that data is available to present a more multi-dimensional picture if the will to do so exists.



In summary, given that over half the payment breaks on family home mortgage accounts in the first three months of the pandemic were obtained by borrowers who drew down mortgages that may have been disproportionately large at a time when property prices were inflated (some of whom may have subsequently topped up their mortgage) and some of these borrowers are now between 50 and 60 years old, what other factors might be relevant to their situation? For example, how many of these 36,000 mortgages has a history of forbearance? It is probable that there would be a higher percentage of forbearance among this cohort than among the remaining 31,000 who sought a payment break, since the former borrowers are more likely to have faced onerous mortgage payments in the teeth of a recession following the Global Financial Crisis (GFC).

And to what extent might another factor, namely the sector in which the borrower earns a living, further complicate the picture for these borrowers in the future? The third CBI paper suggests that *'over the longer term, underwriting standards also varied, and borrowers in the 2010s may simply have been less likely to work in roles affected by Covid-19 in 2020'.* Taken together, this commentary implies that there may be a substantial number of borrowers who availed of payment breaks who fall into a potential prototype of future mortgage arrears difficulty consisting of those who: **(i) drew down their mortgage between 2004 and 2008; (ii) are in 'late-middle age'; (iii) have a history of previous forbearance prior to the payment break and, (iv) are working in a sector adversely affected by the impact of Covid 19.**

This CBI point in time study provides by far the most in-depth picture of those availing of payment breaks and holds some clues to how the long-term financial effects of Covid might play out at the household level, but there are limitations to it. It covers family home mortgages only, and at the risk of repetition, there is no equivalent cross-sectional data picture available in relation to payment breaks on *unsecured* loans availed of by these borrowers. Nonetheless, a salient fact is that over 67,000 payment breaks applied to owner-occupier mortgages in Ireland at the five major retail banks as at 29th May 2020. That is a notable percentage of close to one-in ten mortgage holders seeking forbearance in the first two/three months of the pandemic, when it is arguable that its financial effects had yet to take full effect. Why so many? Is it conceivable that some did not need a payment break but took one anyway, seeing as it was on offer? **Without talking to consumer borrowers as well as seeking more detailed data returns from their lenders, it is impossible to know.**

By late August 2020, some three months down the line, it is stated that CBI internal estimates suggested that close to half of the payment breaks had ended. What prompted them to end? The gradual easing of restrictions from early June may have had an anticipatory effect for some but it seems unlikely that it was an improved financial situation in the case of a number of such borrowers. On the other hand, it may have been a realisation, at least in some cases that the payment break was more trouble than it was worth and would ultimately result in an increase in the amount the borrower would have to pay. Or perhaps the banks were not encouraging their continuation? Again, some consumer-focused research might have teased this out and still could do so.

By the end of November 2020 as we shall see below, after a further interval of three months, the Banking and Payments Federation of Ireland (BPFI) reported that a total of only 3,900 payment breaks remained on PDH/family home mortgage accounts from the total of over 67,000 accounts on payment breaks noted by the CBI at the end of May; 2,600 of these were 'active extended' breaks and 1,300 were 'active initial' breaks. It subsequently reported that by the end of December 2020, only 2,000 payment breaks on mortgages remained in place, 700 of these were 'active initial' breaks and 1,300 were 'active extended' breaks.[52]



What has happened to the payment performance of these 67,000 plus mortgages since? In particular, what has happened to those borrowers identified above as being in something of a vulnerable cohort, whose advancing age, amongst other factors, would suggest that their payment capacity is likely to diminish in the short to medium term? Have they resumed full repayments on their mortgages? If so, on what basis are they managing to do so and why did they seek a payment break in the first place? As we are moving closer to a situation where the fallout from the pandemic from a consumer debt perspective may become more apparent, these are questions that require careful consideration.

***We recommend that, in particular, the CBI carry out an audit with lenders of what has happened in 2021 with the almost 36,000 mortgage accounts that availed of payment breaks in 2020, where the mortgages were drawn down between 2004 and 2008 and fit a profile of financial vulnerability.***

[52] Banking and Payments Federation Ireland (2021). *Payment Breaks Update, December 2020.* Dublin: Banking and Payments Federation Ireland.

# 6
# SECTION

## 6. Central Bank paper – Mortgage payment breaks, Extensions and Expirations

### Introduction

The CBI published a 'Financial Stability Note' (FSN) concerning payment breaks on July 13th 2021,[53] becoming the fourth in a suite of research data papers on the subject.[54] This new work is primarily a sequel to the Bank's research on PDH mortgage payment breaks we have reviewed in Section 5 immediately above, which we will refer to as the **'Gaffney and Greaney'** paper from here in an attempt to avoid any confusion.

We have seen above in our review of Gaffney & Greaney that it examined a total of 67,334 initial payment breaks in place on family home (or PDH) mortgages on 29th May 2020. This subsequent paper suggests that half of these went on to extend their initial payment break, and half did not so – based on the ballpark figure of 67,000, this amounts to some 33,000 to 34,000 accounts in each category.

In addition, an update is also provided on the percentage of account holders who returned to full payments before or by the end of 2020, following the end of their (initial or extended) break as follows:

> *The share of active COVID-19 payments breaks fell sharply between May 2020 and October 2020, from 10.9 per cent of the total outstanding mortgage balances to 1.7 per cent. This reflects an approximate 85 per cent reduction in the active payment break share between May and October with the majority of borrowers returning to paying full capital and interest by October 2020. Data up to the end of 2020 reveal a further reduction in active payment break share with approximately 97 per cent of all PDH mortgage accounts that availed of a COVID-19 payment break having returned to paying full capital and interest (BPFI and Central Bank of Ireland Statistics).*[55]

Thus, this update broadly categorises three core payment break groups at the end of 2020, nine months into the pandemic, as follows: (i) those who availed of an initial payment break only; (ii) those who also availed of a payment break extension, and; (iii) those who required further 'forbearance' upon expiration of their payment break/s. This last category who required further 'lender support' following the expiration of an initial or extended break is of particular concern in terms of mortgage debt cases that may persist as a result of Covid 19.

This paper also seeks to further explore some of the key shared characteristics of borrowers who took initial payment breaks usefully identified by Gaffney and Greaney and to what extent these shared characteristics held for those borrowers who availed of an extended payment break and it is this issue that we explore first below.

### Characteristics of those availing of payment break extensions

The Note explains that *'Previous work (Gaffney & Greaney, 2020) identified the characteristics of PDH borrowers on payment breaks as at May 2020'*.[56] This is a reference to some common factors identified in a number of borrowers seeking initial payment breaks, such as a previous history of arrears or forbearance, the period when the loan was drawn down, the borrower's age group, the sector of the economy where the borrower works and both loan to income (LTI) and loan to value (LTV) ratios. The Note explains that *'we use updated information to examine if those characteristics continue to hold true for borrowers who received payment break extensions'*.

- *Previous history of arrears / forbearance*

On the question of the borrower's previous payment record, it is noted that *'Gaffney & Greaney (2020) identified that loans with a forbearance history are more than twice as likely to have a payment break when compared to loans that were never forborne. The newer data confirms that this remained the case among*

[53] Kelly, J. Lyons, P. O'Brien, E. and Rice, J (2021). 'Irish Mortgage Payment Breaks—Extensions and Expirations'. Dublin: Central Bank of Ireland, *Financial Stability Notes*, Vol 2021, No.7.

[54] Another of these—Duignan, D. and Kearns, A. (2021). *Behind the data: Mortgage borrowers facing end of term repayment shortfalls*—is reviewed in detail in Paper Two of this series on the subject of mortgage arrears.

[55] Ibid Page 4.

[56] Ibid page 2

*those with active payment breaks in both May 2020 and October 2020'.*[57]

An important variation is recorded here in that '*the May and October 2020 groups differ in terms of depth of arrears however. In May 2020, there was a higher payment break share among those borrowers in early arrears (1-90 days past due). In October 2020, of those on active payment breaks, there was a higher payment break share among deeper arrears groups (91-365 dpd and 366-720 dpd)'.*

This is a significant finding. Of those borrowers remaining on a payment break who had a history of mortgage arrears prior to Covid, the updated data here suggest that by October 2020, those whose arrears history was more difficult were now on average more likely to remain on a break, by that stage likely to be an 'extended' payment break. Further, it is stated that '*Gaffney and Greaney had noted that there was a higher share of payment breaks for loans originated before 2008 and this was also the case for those receiving a payment break extension as at October 2020'.* To be more specific, what Gaffney and Greaney found was that 53% of 67,334 initial payment breaks as of May 2020 (close to 36,000 accounts) involved PDH mortgages drawn down, specifically in the years from 2004 to 2008. Significantly, this was a time when the property market was out of control and house prices were inflated, when the regulation of lending and prudent lending standards had become virtually non-existent, and when the crash was imminent. Many mortgage loans offered during this period were in our view reckless and unsustainable.

Thus, there is consistency in this updated finding in that many borrowers with loans originating from this period are more likely to have a history of arrears than subsequent borrowers, may have less capacity to absorb an income shock caused by Covid and therefore are more likely to need a payment break extension, and perhaps further forbearance down the line.

In addition, Gaffney and Greaney also suggested that many borrowers who drew down their mortgages in that period may now be aged between 50 and 60 years old and were more likely to have a payment break in place than younger cohorts. A further recent paper by the CBI suggests that one quarter of engaged[58] long term mortgage arrears (LTMA) borrowers are over 60 years of age and that for these borrowers, future income generation capacity is minimal.[59] **It is therefore a little surprising that the age of borrowers does not seem to have been pursued further in this note in terms of both numbers of payment break extensions and subsequent restructuring, given the importance and the urgency of this issue.**

## ■ *Other key characteristics*

The analysis of other common characteristics that might be shared by borrowers who went on to avail of a payment break extension is perhaps less developed here than might have been hoped. A case in point is the sectors of the economy in which such borrowers are employed or self-employed. Even though the Note points out that '*it is considered likely that sector of employment and payment break take-up would be highly correlated, as certain sectors have been affected more than others due to COVID-19'*,[60] this hypothesis is not directly explored.

Instead, the Note focuses on the borrower's county of residence rather than the sector of employment, in suggesting *'that borrowers residing in counties where employment prospects deteriorated (as per our PUP measure) were more likely to request a payment break extension'*[61], and, in similar terms, that '*those receiving a payment break extension were also more likely to reside in counties with relatively large shares of pandemic unemployment payment (PUP) and reside in counties where labour market prospects remained subdued (i.e. counties with relatively poor recovery in county level PUP share from March to October 2020)'.*[62]

A further common feature of payment break borrowers that is updated concerns the related

[57] Ibid page 4

[58] I.e. said to be co-operating with their lender.

[59] Kelly, J., Lyons, P., McCann, F. and O'Brien, E. (2021). 'Long term mortgage arrears: Analytical evidence for policy considerations', *Financial Stability Notes*, Vol. 2021 No.8. Dublin: Central Bank of Ireland, July 2021.

[60] Ibid page 4.

[61] Ibid page 8.

[62] Ibid page 10.

issues of loan to income and loan to value ratios. Here the Note largely reiterates the findings of the Gaffney and Greaney paper in observing that *'the higher the OLTI (origination loan to income), the greater the payment break propensity and payment break extension propensity'* and that, *'in general higher OLTVs (origination loan to value) are associated with higher payment break propensities'.* It is also worth noting that *'in general, there are fewer First Time Buyers (FTBs) availing of payment break extensions when compared with Second and Subsequent Buyers (SSBs)'.*[63]

## ■ *Key findings: Payment Break Extensions*

The core findings on the question of payment break extensions are summarised as follows:

- *Of those PDH mortgage borrowers who availed of a payment break in 2020, half went on to extend their initial payment break.*
- *Borrowers receiving payment break extensions were more likely to have existing or historic forbearance measures in place, less likely to be in long-term arrears (>1 year) and more likely to reside in counties where the labour force had a more subdued recovery following the onset of the COVID-19 shock. Borrowers who received a payment break extension had, on average, somewhat higher origination loan-to-incomes than those receiving one payment break only.*
- *There were a larger share of payment breaks and payment break extensions for loans originated in the years leading up to the Global Financial Crisis (2003-2008).*[64]

Thus, many key common characteristics suggested in the Gaffney and Greaney paper of an initial payment break applicant – a history of mortgage arrears and forbearance; living in a county more adversely affected by Covid from an employment perspective; a higher loan to income ratio at origination; and drawdown in the years immediately before the GFC – are reaffirmed in this update, in terms of those borrowers who sought an extension to that initial break.

## Accounts seeking further forbearance post-payment break

A critical question relating to the development of new mortgage arrears cases arising out of the pandemic is the extent to which those who availed of payment breaks sought *further* forbearance through submitting a Standard Financial Statement (SFS) to their lender after either their initial or their extended payment break expired.

## ■ *Key findings: Further forbearance post payment break/s*

Four key findings under this heading are summarised as follows:

1 *While the majority of PDH borrowers have returned to paying full capital and interest following their payment break/s, a small cohort requested further restructuring solutions.*

2 *By December 2020, 2.2 per cent of those receiving a single payment break submitted a Standard Financial Statement form (SFS) to their bank. This share increases to 5.4 per cent for those in receipt of a payment break extension.*

3 *Of those borrowers who submitted an SFS form seeking further restructuring, the median borrower in receipt of a payment break was making repayments in full in the three months prior to the pandemic, suggesting that the pandemic was the root cause of financial distress amongst this payment break group.*

4 *Reduced monthly repayments or deferred payment options were the preferred restructuring types offered to this cohort of borrowers upon expiry of a payment break. The solutions agreed appear to vary with borrower financial distress (i.e. lower repayments for those with lower incomes and larger monthly financial deficits).*[65]

[63] Ibid pages 9-10.

[64] Ibid page 2.

[65] Ibid page 2-3.

### ■ *Further forbearance sought post payment break – How many accounts?*

A drawback in the data here, however, is that the figures quoted – 2.2 per cent of those receiving an initial payment break and 5.4 per cent for those in receipt of a payment break extension – are again expressed as percentages of the total overall balance owed on these mortgages, rather than the numbers of the payment breaks themselves. **As with previous datasets, it would be useful to quantify the actual number of accounts that sought further restructuring solutions.** Despite this, some information in terms of the numbers of accounts affected may be gleaned by the further suggestion that:

> *'Using data on 4,305 SFSs submitted by the five main retail banks in the period 27 March 2020 to 31 December 2020 that have resulted in a forbearance decision, we can get a more detailed profile of the financial position of borrowers in mortgage distress who have submitted an SFS during this period'. In this section, all borrowers are in some form of distress (or expect to be so) and thus have engaged with their lenders to seek assistance in the form of a restructure'.*[66]

It subsequently transpires that in amongst these 4,305 SFSs are a number of accounts that had not at any point applied for a payment break, including '*some borrowers in longer-term mortgage arrears as well as those who experienced financial difficulty during COVID-19'*.[67] Here, Table 4 of the Note shows that 0.5% of loan balances that had not received a payment break submitted an SFS during this period'[68] and Table 5 suggests that *'on average, distressed borrowers who had not requested a payment break had higher monthly repayments due, were more likely to have a history of forbearance and to be in arrears'* and that '*these can be considered representative of borrowers* who may have been experiencing financial distress *'for reasons other than the COVID-19 shock alone'*.[69]

From what we can see, if the percentages above that sought forbearance or further forbearance from the end of March 2020 to the end of December 2020 were to be expressed in terms of the number of accounts rather than the amount owed on such accounts, these might look as follows:

- *2.2% of 33,500 accounts who availed of an initial payment break only = 737*
- *5.4% of 33,500 accounts who availed of an initial and extended payment break = 1,809*
- *0.5% of 674,000 accounts (roughly the number of outstanding PDH accounts at end May 2020) who had not availed of any payment break = 3,370*

This gives us an estimated total of not far off 6,000 accounts, well in excess of the 4,305 accounts said to have submitted a SFS during this nine month period. Is 4,305 the total number of new SFS's submitted during the period to the five retail banks during this time? It would be useful if the CBI actually confirmed this.

### ■ *Further forbearance post payment break – Degree of financial difficulty*

It is arguable that the waters become a bit muddied at this point in terms of trying to distinguish between the following cohorts:

1. borrowers who had no apparent payment problems until they applied for an initial payment break or an extended payment break as a result of Covid, and who went on to seek further forbearance;
2. those who experienced financial difficulty relating to Covid but never applied for a payment break and:
3. those who were experiencing financial distress for reasons other than Covid alone and never applied for a payment break.

What is clear is that not all borrowers who got into mortgage payment difficulties during this period applied for a payment break and it is worth both repeating some reasons why this might be

[66] Ibid Page 11.

[67] Ibid Page 11.

[68] Ibid Page 12. It is also notable that this 0.5% cohort actually affects €336 million of loan balances, nearly as much as the combined total of 2.2% who received an initial payment break and subsequently submitted a SFS (€116 million loan balance) and 5.4% who received a payment break extension and subsequently submitted a SFS (€274 million loan balance).

[69] Ibid Page 12.

and asking the CBI to further enquire into them. For example, some borrowers may have figured that a payment break would cost them more money in the long run; may have decided that the administration and bureaucracy involved was not worth the trouble; may have felt that it might draw unwelcome attention to their situation or might have led to adverse categorisation of their account. Ultimately, some might have felt that it would be easier to invoke the lender's arrears procedures if a financial problem during or related to Covid persisted.

It would also seem clear that not all borrowers who availed of an initial payment break only had their financial difficulties solved by that break, given that 2.2% of them (in terms of the overall balance owed) subsequently submitted a SFS and sought further forbearance from their lender. If their financial problems were persisting, why did these account holders not seek to extend their payment break? Again, this may be linked to a realisation that a payment break was more trouble than it was worth.

Finally, the percentage (again in terms of balance owed) who subsequently filled out a SFS seeking further forbearance increases to 5.4% for those who availed of both initial and extended payment breaks. This is the equivalent of one in every 20 accounts for whom a payment break of six months was not sufficient to resolve their difficulties. How many of these sought a further payment break into 2021 given that these were available, in theory at least, on a 'case by case' basis and what were the outcomes of any such requests? How many borrowers sought a payment break for the first time in the course of the first six months of 2021?

***We recommend that details be sought by the CBI and provided by lenders on the numbers and types of payment breaks applications made in the first six months of 2021 and the outcome of these applications.***

## Commentary

While it is welcome that the CBI is doing some detailed digging and reminding lenders very clearly, for example in its 'Dear CEO' letters,[70] of what it expects from them in terms of processes and outcomes, the conversation is missing a vital element. To our knowledge, no one from the CBI has spoken directly to borrowers themselves about their experience during this period and this means that a vital part of the picture – intelligence on consumer perception, opinion and behaviour — is missing. Thus, while this FSN provides some worthwhile observations and updates, its usefulness as a gauge of the long term financial difficulty that may arise as a result of Covid, viewed from the borrower's perspective, is somewhat patchy.

***Accordingly, we recommend that an evaluation of the payment break programme viewed from the consumer borrower's perspective be undertaken. As already noted above, the state-funded Money Advice and Budgeting Service (MABS), with considerable numbers of clients in both family home mortgage and consumer credit arrears, some of whom will have availed of payment breaks, would seem an obvious service with which to collaborate to capture the debtor experience on these matters which might provide insights that might be helpful in terms of future policy development.***

Ultimately, the most concrete current information here in terms of new arrears cases relates to the 4,305 SFSs submitted by customers of the five main retail banks in the nine month period from 27 March 2020 to 31 December 2020. A further breakdown in terms of the numbers in each category – initial payment break only, initial and extended payment break, and no payment break – would be useful but even that would seem a far from solid basis upon which to try to predict any potential future arrears trajectory, without a follow-up in 2021. In particular, it would seem difficult to sustain the

[70] See for example "Expectations for lenders in supporting borrowers affected by the COVID-19 pandemic", Dear CEO letter, *Central Bank of Ireland*, 20th November 2020.

attempted distinction between those accounts that got into financial difficulty solely because of Covid and those who may have got into difficulty during this period with or without Covid, without further data follow up.

In terms of the forbearance being offered to these borrowers who submitted a SFS over the period, the paper suggests that *'reduced monthly repayments or deferred payment options'* were the preferred restructuring options. This is a quite general statement and some additional detail and breakdown here would have been useful. As already noted above, the 'Dear CEO' letters sent by the CBI to lenders strongly emphasise that short term restructures may not suffice to resolve what may become longer term arrears problems. For example, the November 2020 letter refers to *'some warning signs that need to be addressed quickly to deliver appropriate outcomes for both borrowers and lenders'* including some *'early indications that some lenders are overly relying on very short-term arrangements, whereby borrowers do not repay any capital. These arrangements may not be in the borrowers' best interest as they increase the overall cost of credit for the borrower and do not address the affordability of their loans over the longer term'.* [71]

Finally, this FSN, though published in July 2021, confines its review to developments by and at the end of 2020 only. While it serves to better illuminate some of the issues already reviewed and highlighted in our analysis, other issues where further clarity would have been useful remain to be satisfactorily addressed. Moreover, the absence of a borrower-centred, longitudinal approach renders it nigh on impossible to identify and track the factors which influenced individual payment break decisions and trajectories. Further analysis of what has occurred with these accounts into 2021 would add more useful context to any assessment of the extent of new mortgage arrears cases arising out of Covid and how such cases might be decisively resolved.

### Further issues – the scope of, and participants in, the payment break programme

The Note observes that *'the COVID-19 payment break programme in Ireland was non-legislative and consisted of payment break agreements between lenders and borrowers for mortgage, consumer and business loans, whereas in some countries moratoria were legislative. The banking industry body, the Banking and Payment Federation of Ireland (BPFI), facilitated the programme in Ireland'.* In turn, it states that *'the programme was implemented by Irish retail banks and non-bank entities'*.[72]

Arising out of this statement, further discussion points occur as follows:

- *Participation of non-Bank entities*

It is stated that the programme was implemented by Irish retail banks and non-bank entities, but, again, it seems far from clear which non-bank entities have participated. Clicking on the link provided in the relevant footnote in the paper – *'Non-bank entities comprise of Retail Credit Firms and Credit Servicing Firms per classification'* – only takes the reader to the CBI's general registers of regulated entities which includes the full lists of all regulated Retail Credit Firms and Credit Servicing Firms operating in the State. As we noted above,[73] the Gaffney and Greaney paper which reviewed the details of over 67,000 payment breaks on family home mortgage accounts provided by the end of May 2020 and to which this FSN is a follow up, explicitly states that *'these records do not include loans owned by retail credit firms and credit servicing firms, even if the banks originally issued the mortgages'.* It is therefore notable that retail and credit servicing firms owning and/or administering mortgage accounts are also omitted from this FSN, even though it is apparent that such accounts have a greater likelihood of being in financial difficulty. **This omission remains neither explained nor corrected. It is conceivable therefore that these entities**

[71] See: https://www.centralbank.ie/docs/default-source/consumer-hub-library/covid-19/dear-ceo-letter---expectations-for-lenders-in-supporting-borrowers-affected-by-the-covid-19-pandemic.pdf?sfvrsn=4_

[72] Ibid Page 1.

[73] See Section 5.

**bypassed the payment break programme entirely. As already recommended above, the CBI should clarify this as a matter of urgency.**

### *Participation of non-BPFI lenders*

The Banking and Payment Federation of Ireland (BPFI) is said to have facilitated the programme in Ireland. What kind of preparatory discussions took place between the Department of Finance, the CBI and the BPFI leading to the programme and what subsequent instructions were issued to the BPFI as a result? And if the BPFI did indeed facilitate the programme in Ireland '*for mortgage, consumer and business loans*', **how would it have ensured that other entities that are not members of the BPFI participated in it?** This is particularly relevant in respect of payment breaks on loans offered by credit unions. Payment breaks offered by credit unions are specifically enumerated in the first and second research CBI papers reviewed above, but there is little or no reporting of them since. Questions also arise as to whether payment breaks were offered by licensed moneylenders or car finance providers that are not licensed credit institutions.



### *Non-legislative basis*

Arising out of these concerns and given that this FSN states that *'in some countries moratoria were legislative',* it is worth asking whether any consideration was given by the CBI and/or the government to a statutory payment break programme in Ireland? The apparent possibility from the evidence that we have reviewed that some credit providers may not have offered payment breaks at all, may be explained by the lack of any legal obligation to do so.

***In summary then, three significant further questions arise here: (i) to what extent was control of the payment break programme entrusted to the BPFI? (ii) How widely did it cover the lending industry? (ii) Was a legislative payment break option ever considered? We recommend that clarification on these questions is provided by the CBI and from the Department of Finance.***

## Further issues – Future policy considerations

This Note concludes with a number of useful observations to inform policy development and these include the following:

> 'Most mortgage borrowers who availed of a COVID-19 payment break have since returned to paying full capital and interest repayments. However, as government supports, including direct income supports, are tapered, it is possible that some borrowers could require further lender support. For these cases, lenders should seek to determine if an appropriate and long-term sustainable solution is available to address the borrower's new financial circumstances'.

> 'Despite returning to paying full capital and interest, payment break borrowers represent a vulnerable group - they are the borrowers most affected by the pandemic. However, other borrowers who have not availed of payment breaks, perhaps due to benefitting from direct or indirect government supports may be vulnerable also if such supports were withdrawn too quickly or the economic recovery fails to take hold as expected. Recent research by the Central Bank of Ireland (Box E, Quarterly Bulletin 3, 2021) highlighted that government wage supports for workers were effective in preventing sharper declines in income amongst workers in sectors that have been most negatively impacted by the pandemic. As such, the tapering of supports in a gradual, measured and informed manner, linked to the economic reopening will support the near term repayment capacity of these borrowers'.

> 'Upon expiry of payment breaks, for those borrowers who have engaged with their lender regarding their current financial difficulties, the evidence available suggests that lenders have agreed mainly short-term restructuring arrangements. Depending on how the economic recovery and incomes evolve, some borrowers may

need further adjustments. Longer-term solutions will be required and should be considered where more permanent income shocks are apparent (e.g. for borrowers in certain sectors)'.

'Given that borrowers with either current or past forbearance were more likely to have taken up payment breaks and were more likely to avail of extensions, it is vitally important that lenders and borrowers engage early and meaningfully before short-term arrangements expire. Doing so, will and adding to the already sizeable number of longer-term mortgage arrears cases in the Irish market'.

In brief, these observations may be summarised as expressing the following concerns:

- Though most mortgage borrowers who availed of a COVID-19 payment break (or breaks) have since returned to paying full capital and interest repayments, that situation might deteriorate if and when payment supports—the PUP payment, wage subsidies and other business supports—are tapered or withdrawn. Equally, such developments might precipitate new arrears cases for borrowers hitherto unaffected.
- For those borrowers whose financial problems have persisted and who have engaged with their lender, the available evidence suggests that lenders have agreed mainly short-term restructuring arrangements. We have already seen in Paper Two of this series that the CBI has clearly identified over-reliance on short-term arrangements in persistent arrears cases as a lesson that must be learned from the GFC.[74] Hence, early engagement by borrower and lender and the earlier consideration of long-term restructuring solutions will be necessary in some cases to avoid the build-up of future distress among borrowers.

## Conclusion

While this FSN adds some valuable insights to the CBI research bank on payment breaks and moves the conversation on in terms of narrowing down a profile of affected borrowers and their current predicament and how it might be addressed, it also leaves a number of important questions unanswered in our view. Chief amongst these are the following:

(i) It is solely PDH mortgage focused, and no further data or update is provided on the position of borrowers with unsecured payment breaks. Thus, a large part of the payment break story remains unaccounted for, including the position of borrowers who availed of breaks across a range of agreements.

(ii) As with its predecessor – the Gaffney and Greaney paper - it is further limited in that it focuses only on payment breaks on PDH mortgages offered by the five main retail bank banks, with no detail provided on PDH payment breaks (if any) offered by retail credit firms or credit servicing firms on behalf of non-Bank entities.

(iii) The methodology employed involves another point in time review that brings us to the end of 2020, now nine months ago. No consumer borrowers are interviewed and there is no longitudinal cross-sectional or case study approach employed that follows the borrower's payment break story through its various phases and explores the borrower's perspective.

(iv) Significant dimensions identified in the Gaffney and Greaney paper that might potentially hamper restructuring – the borrower's age or sector of employment for example – and which may necessitate a revised approach to resolution, are not further explored.

[74] See Paper Two, Pages 52-56 and McCann,F and O'Malley,T (2020) 'Resolving mortgage distress after Covid 19: some lessons from the last crisis, *Financial Stability Notes*, Vol 2020, No 7, September 2020, Dublin: Central Bank of Ireland.

# 7

# SECTION

## 7. Industry data on payment breaks

The most up to date published data available on payment breaks generally at the time of writing comes from a set of figures released by the banks themselves via their representative body, the Banking and Payments Federation of Ireland (BPFI), entitled 'Payment Breaks Update', dated 31st December 2020 (but issued in January 2021).[75] This dataset provides an update to a statistical release issued by the BPFI on December 28th 2020 which provided figures on the number of payment breaks across four specific loan account categories[76] up to and as of 30th November 2020, one month earlier. As our series of papers focus solely on consumer debt, we isolate here the payment break data that relates to PDH mortgages and consumer credit loans.

### Overall summary of payment break data



**TABLE 4: PAYMENT BREAK DATA ON PDH MORTGAGES AND CONSUMER CREDIT, 31/12/2020**

| Payment Breaks | PDH Mortgages | Consumer Credit | TOTAL |
|---|---|---|---|
| Approved | 73,800 | 35,800 | 109,600 |
| Expired | 71,800 | 34,600 | 106,400 |
| Active initial | 700 | 400 | 1,100 |
| Active extended | 1,300 | 800 | 2,100 |

Source: Banking and Payments Federation Ireland

Table 4 clearly demonstrates three things. Firstly, almost 110,000 payment breaks had been approved by BPFI members in relation to PDH mortgages and consumer credit in 2020, with a ratio of around 2:1 between them. Secondly, the vast majority of these payment breaks (97%) had expired by the end of 2020, with no major difference in the rate of expiry between each category. Thirdly, where a break still existed, it was twice as likely to be extended as opposed to initial; in other words, at the end of 2020, around two out of every three 'active' payment breaks were 'extended' in nature. Extended breaks imply a duration from four months to the maximum six months allowed by institutions under the BPFI umbrella.[77] Finally, there is no data elsewhere in the BPFI report, from what we can see, on the number of applications for payment breaks by borrowers that may have been *rejected* by the relevant lenders.

### Expired payment breaks

A separate section of this BPFI report focuses on expired breaks. Again, we isolate here the data relevant solely to PDH mortgages and consumer credit.

**TABLE 5: EXPIRED PAYMENT BREAKS ON PDH MORTGAGES AND CONSUMER CREDIT, 31/12/2020**

| Expired Payment Breaks | PDH Mortgages | Consumer Credit | TOTAL |
|---|---|---|---|
| Initial | 37,200 | 23,200 | 60,400 |
| Extended | 34,500 | 11,400 | 45,900 |
| Total | 71,700[78] | 34,600 | 106,300[79] |

Source: Banking and Payments Federation Ireland

As Table 5 shows, while the majority (57%) of PDH mortgage and consumer credit breaks taken together expired within three months, there is a significant difference *between* the two categories in that expired consumer credit breaks are considerably more likely to have been *"initial"* in nature, whereas PDH mortgage breaks are almost as likely to have been "extended" as "initial". This would suggest on the surface that payment difficulties and affordability issues resolved more speedily with unsecured loans than with mortgages.

The fact, however, that a borrower did not seek to renew a payment break is not necessarily a firm indication that affordability has improved. As we observed earlier, some borrowers may not

[75] Ibid.

[76] PDH mortgages, BTL mortgages, consumer credit and Small and Medium Enterprise (SME) loans.

[77] As we understand it, the initial duration of a BPFI institution payment break was three months and the maximum duration was six months. If the borrower did not seek to renew after three months, the break came to an automatic end. If the borrower sought and obtained an extension, it came to an automatic end after a further three months.

[78] There is a slight discrepancy of 100 accounts between the respective BPFI datasets.

[79] The same discrepancy of 100 also exists here.

have initially realised that availing of a payment break would ultimately increase the amount owed to their lender when the break came to an end, and therefore the notional monthly instalment payable would increase. This may in itself have been a good reason for some not to seek an extension, particularly when the extended break could only last a maximum of a further three months in any event. The fact of the matter is that there is no write down or write off involved for a borrower offered a payment break. It is simply a facility, which has future payment consequences.

## Outcomes of expired payment breaks

**TABLE 6: OUTCOMES OF EXPIRED PAYMENT BREAKS ON PDH MORTGAGES AND CONSUMER CREDIT, 31/12/2020**

| Payment Break Outcome | PDH Mortgages (%) | Consumer Credit (%) |
|---|---|---|
| Repaying on existing term | 84.2 | 49.4 |
| Repaying on extended term | 4.4 | 49.0 |
| Receiving other forms of lender support | 11.4 | 1.5 |

Source: Banking and Payments Federation Ireland

### ■ *PDH mortgages*

As shown in Table 6 above, the BPFI participating institutions reported that a large majority of 'payment break' PDH mortgages had returned to repayments on the existing term. While this is positive, there remained a considerable proportion of borrowers (close to 1 in 6) who had *not* returned to their existing terms, with the majority of these categorised as 'receiving other forms of lender support'. Although this term is not explained, it is likely that this wording may in reality serve as a euphemism for at least some accounts now newly in arrears which became the subject of each relevant lender's mortgage arrears resolution process.[80]

Although they seem to cover the same end date, there appears to be a significant difference between the figures presented by the BPFI here and those set out in the Financial Stability Note (FSN) from the CBI reviewed in Section 6 immediately above, as follows:

1 In the CBI FSN, it was reported that '*data up to the end of 2020 reveal a further reduction in active payment break share with approximately **97%** of all PDH mortgage accounts that availed of a COVID-19 payment break having returned to paying full capital and interest' (BPFI and Central Bank of Ireland Statistics).*[81]

2 As Table 6 above shows, however, the BPFI reported in January 2021 that at end 2020, **84.2%** of PDH mortgage accounts that had availed of a payment break/s resumed repaying on the existing term, i.e. full capital and interest. **15.8%** therefore had not. Of these **4.4%** were repaying on an extended term, which we broadly take to mean that the mortgage was extended by the length of the break with repayments calculated slightly upwards. However, **11.4%** (including accounts that were already in arrears when the payment break was agreed) were receiving 'other forms of lender support' and therefore had clearly not returned to repaying full capital and interest. **This is one in nine accounts for whom payment breaks in 2020 did not suffice to resolve their financial difficulties and one wonders what has happened with these accounts in 2021.**

3 Of equal significance, how is it that the CBI and the BPFI can come up with two such differing figures – 97% resuming full repayments according to the CBI, 84% according to the BPFI – when they are the two bodies that together co-ordinated the payment break programme?

[80] In a previous BPFI dataset, dated the end of November 2020, 10.9% of 69,800 PDH mortgage accounts with expired payment breaks (just over 7,600 on our calculations = 69,800 x 0.109) were not being repaid in full post-break. By the end of December the percentage in this category had risen to 11.4% of 71,800 such accounts (close to 8,200 accounts = 71,800 x 0.114) that are now described as *'receiving other forms of lender support'*. This amounts to a marked increase of almost 600 accounts over just one month.

[81] Ibid. It should be said that these numbers are undermined by further figures in the FSN that suggest that 2.2% (in overall balance owed) of accounts that availed of an initial payment break only and 5.4% of those that had an extended payment break, subsequently filled out a SFS. It is unlikely that they would have done so had they returned to paying full capital and interest.

***We recommend that an explanation be provided for the apparent disparity between these two sets of figures as a matter of priority and an agreed set of figures be given for the payment outcomes of expired breaks at the end of 2020.***

### *Consumer Credit loans*

A markedly different picture emerges with regard to (non-mortgage) consumer credit loans where just under half reverted to repaying on existing terms. Indeed, a consumer credit-related payment break appears over *ten times more likely* to result in a term extension after the payment break ends than a PDH mortgage one. Is it the case with such loans that the term has only been extended by enough time to pay off the unpaid principal and interest that resulted from availing of the payment break? Or is it also possible that, in some cases, the term of at least some of these consumer credit agreements has been extended more fundamentally to reduce the instalment payments to reflect the Covid impaired financial situation of the relevant borrowers? **Further detail on the revised payment terms of these extensions would provide useful context.**

Further questions follow from these data. For example: what was the comparative position regarding these 'payment break expired' accounts at the end of January 2021 and at the end of each subsequent month since? To our knowledge, there is no further publicly accessible data from the BPFI on the position regarding these accounts in 2021. Further, no distinction is made in these figures between borrowers already paying less than the full contractual instalment when the break was sought (i.e. some form of payment forbearance or restructure was already in place), and those borrowers who were making full payments prior to seeking a break, (i.e. those who seemed, on the face of it, to be running into financial difficulty for the first time). **There is also likely to be a significant difference between these two categories, a distinction which would be useful as a predictor of future potential insolvency.**

## Participating lenders

In explanatory notes at the conclusion of the December edition 2020 of these data, the BPFI states that *'this data relates to EBA compliant payment breaks provided by participating BPFI member institutions'* and *'this report is based on statistical information supplied to BPFI by the participating institutions'*. There is no list of participating institutions supplied and this omission gives rise to questions concerning the scope of the data.

Are there some member institutions that did not offer payment breaks? To reiterate on this issue, we have already noted that the third and fourth of the CBI papers discussed earlier only reviewed PDH mortgage payment breaks offered by the five major retail banks. Hence, they did *not* cover any breaks that might have been offered by retail credit firms or credit servicing firms (also known and described as 'Non-Bank' entities), an important omission in terms of assessing the potential scope of future financial difficulty for borrowers.

A number of retail credit firms and credit servicing firms are members of the BPFI – these include, for example, Cabot Financial Ireland, Lapithus, Mars Capital, Pepper, Promontoria Servicing Ireland Ltd and Start Mortgages – and they own and/or service significant numbers of family home mortgages.[82] **Have payment breaks offered by these regulated firms been included in this BPFI release? Similar, though less notable,[83] concerns apply to the data on consumer credit.**

## Commentary

Apart from the apparent discrepancies between the CBI and the BPFI data on the number of PDH accounts that have resumed full repayments at the end of 2020 following the end of payment breaks, it is again perhaps the scale of the payment breaks that is the most revealing aspect of this dataset from the BPFI. This volume of breaks related to consumer loans (PDH plus consumer credit)—close to 110,000 in total over a nine month period—arose clearly as a result of

[82] See Table 1 above.

[83] Based on the assumption that sales of unsecured loans are estimated to be less frequent than sales of mortgages.

either real or perceived financial difficulties on the part of the relevant borrowers.

The fact that one in every three breaks concerned non-mortgage consumer credit agreements also serves to remind once again that Covid related problem debt and debt problems generally are about much more than mortgage arrears. No breakdown is provided on the types of consumer credit agreements involved but it is likely that these involve personal loans, car loans, credit sale and credit card agreements amongst others. Some who availed of payment breaks on consumer credit agreements will not have mortgages and will be living in private rented or public housing accommodation. Problems arising from rent arrears and utility debt may also be part of the financial picture for some of these borrowers and insolvency solutions under the Personal Insolvency Act 2012, such as a Debt Relief Notice (DRN) or a Debt Settlement Arrangement (DSA) may be required in some of these cases.



As with the CBI data, there is no further contextual information available here, such as whether some of these borrowers may have two or more agreements in difficulty, since the principal focus remains on the amount owed to lenders on accounts which are the subject of payment breaks and not the circumstances or situations of the borrowers affected. Although it appears that a majority of PDH mortgage accounts had returned to full payment, it is not clear that this is the case with regard to consumer credit loans, and we have no further up-to-date data in 2021 on how these households are faring now. A number of further concerns arise, such as how many households held accounts across each of these categories and indeed others cited in the dataset. For example, a small business owner could have payment breaks on an SME loan for his/her business, a residential mortgage loan and a consumer credit loan simultaneously. Such a household might conceivably therefore be threatened with personal insolvency across a range of a financial obligations.

It is also important to emphasise that the data trail stops at the end of 2020. At that point, according to the BPFI, some 1,100 initial payment breaks (700 on PDH mortgages and 400 on consumer credit accounts) and 2,100 extended payment breaks (1,300 on PDH mortgages and 800 on consumer credit accounts) were still in place. What has become of those accounts since? In addition, with renewed Level 5 restrictions in place and Covid numbers at high levels in the first half of 2021, how many borrowers sought a payment break for the first time or sought to renew a payment break and had such a request refused? How many went into the relevant lender's arrears resolution processes in 2021, with either a family home mortgage or consumer credit account?

***Accordingly, we suggest that the BPFI consider the following:***

- ***Carrying out a review and update of these payment break data and providing detail on the nature of the post-break extended terms offered. In terms of those who availed of payment breaks, a distinction should be made between those borrowers who were already paying less than the full contractual instalment when the break was sought and those borrowers who were making full payments prior to seeking a break;***
- ***Clarifying which of its members were 'participating institutions' in the payment breaks covered by this release, and particularly whether retail credit firms and credit servicing firms that are members of the BPFI are included;***
- ***Providing further information on 1) the outcome of payment breaks that were still in place when this dataset was published and 2) the progress of accounts that did not return to full payments following the end of the break;***
- ***Specifying how many accounts have gone into the formal arrears processes of lenders since the advent of Covid, whether following the ending of a payment break or otherwise.***

# 8

# SECTION

## 8. Payment breaks in 2021

The approach of the Banking and Payments Federation of Ireland (BPFI) and its members as regards facilitating payment breaks appeared to change some months into the pandemic. On May 28th 2020 for example, it was reported that a borrower requiring a payment break for the first time – or a renewal of an existing payment break – would have to apply before the end of June 2020, and that payment breaks would apply for a maximum of six months (three months initial and three months extended) in total.[84] On September 28th, 2020, a meeting was called by the Tánaiste, Leo Varadkar TD, and the Ministers for both Finance and Public Expenditure, with the CEOs of the five main retail banks. Arising out of that meeting, a statement was issued on behalf of the government, as follows.[85]

> *"The recession caused by the pandemic is like no other. Nobody is to blame for being unable to pay because their job is gone or business is closed. It's in everyone's interest that people and firms are given more time to get back on their feet. We want to make sure that COVID-19 results in a lost year of economic activity not a lost decade and that means forbearance and loan restructuring where appropriate".*
>
> *"For this reason the banks must continue to offer payment breaks to individuals and businesses that still need them. Following on from today, the banks agreed that this would be done on a case by case basis with other options also being made available; reduced payments and interest-only, for example. Anyone who is struggling should contact their bank and we expect that arrangements will be made based on each individual's circumstances. Banks must be understanding of people's needs at this really difficult time and cognisant of the extraordinary year 2020 has been.*
>
> *"There is no cliff-edge coming on September 30th. This is merely the last day on which people and firms can apply for a COVID-related payment break if they don't have one already."*

The fact that senior Ministers had to meet with the heads of the banks to get a commitment that they would from that point agree to consider payment breaks 'on a case by case basis' indicates that industry tolerance for payment breaks had waned considerably by that point. Thus, by the time of the second lockdown towards the end of October, 2020, payment breaks were no longer standard but were 'case by case'.

In early December, 2020, the European Banking Authority (EBA), announced that it had made a decision to reactivate its guidelines on payment moratoria:

> *The EBA is introducing a new end date of 31 March 2021 for these guidelines, replacing the previous date of 30 September 2020. The EBA's decision means that, for a limited period, where national payment moratoria meet the conditions of the EBA's Guidelines, banks granting such payment breaks to customers do not have to automatically reclassify exposures as forborne or defaulted in line with the definition of distressed restructuring under the existing regulatory framework. The extension comes with stricter conditions than those accompanying the original guidelines; specifically:*
>
> 1 *introducing a cap of nine months on the maximum duration of any individual payment break; and*
>
> 2 *requiring banks to notify the relevant competent authority of their plan on how to assess the unlikeliness to pay for the exposures subject to the general payment moratoria.*[86]*.*

[84] 'End of June application deadline for bank repayment break – BPFI', *RTÉ News*, 28th May 2020.

[85] 'Tánaiste and Ministers for Finance and Public Expenditure & Reform meet CEOs of AIB, Bank of Ireland, Ulster Bank, KBC, PTSB and the BPFI'. *Press release,* Department of Enterprise, Trade and Employment, 28th September 2020.

[86] 'Statement regarding EBA Decision to Reactivate Guidelines on Payment Moratoria'. *Press release*, Central Bank of Ireland, 2nd December 2020.

The response of the Irish banks to these guidelines was lukewarm, given that the European regulatory body that makes the decisions in this regard appeared to have given the green light to resume payment moratoria. The Irish Times reported on December 2nd 2020 that *"The Banking and Payments Federation of Ireland (BPFI) said late on Wednesday that Irish banks did not intend to avail of the relaxed rules, and would instead continue to use a "case-by-case approach to support those customers adversely impacted by the coronavirus pandemic"* with chief executive Brian Hayes stating that *"Customer requests for support have fallen to extremely low levels in Ireland, and the vast majority of customers have exited payment breaks and are back on full repayments. The situation is not what it was earlier in the year."*[87]

The third lockdown seemed to bring a further adjustment to the BPFI's position on behalf of its members. A statement on the BPFI's website of January 8th 2021 from Brian Hayes stated:

> *"Specialist teams across the support units in the five retail banks and other lenders are working closely with customers on a case-by-case basis to find a supportive solution which meets their individual circumstances. Standard payment breaks continue to be part of the wide range of tailored solutions which are being made available to customers upon assessment of their situation. Customers are also being offered periods of reduced or interest only repayments, and term extensions, where these solutions are appropriate".*

and

> *"We are in the early days of these restrictions, and while lenders are not seeing an influx of requests for support similar to March 2020 the situation is being intensively monitored. While the range of Government supports available is clearly providing significant support, Ireland's lenders also stand ready to provide ongoing support to customers in difficulty during what is an immensely difficult period. Lenders are continually monitoring daily trends and resources are in place to handle further customer support requests, should we see an increase in the coming weeks".*

From what we can see, despite the assertion in this statement that '*standard payment breaks continue to be part of the wide range of tailored solutions which are being made available to customers upon assessment of their situation*', there has been no specific update on payment breaks since, either from the BPFI or the body that regulates its members, the Central Bank of Ireland (CBI), despite a very long lockdown from late December 2020 into May 2021.

[87] 'Payment breaks on loans get green light again from watchdog—Irish banks decline to avail of relaxed European Banking Authority rules for customers', *Irish Times*, 2nd December 2020.

# 9

# SECTION

## 9. Conclusion and key questions

### Key questions

It is evident from our review that a substantial number of payment breaks on consumer loans, both secured and unsecured, were approved between end March and December 2020. A small number – 2,000 on family home mortgages, 1,200 on consumer credit agreements – remained in operation at the end of 2020. **What has become of these arrangements as we move into the final months of 2021?**

**In addition, what is the current position of borrowers with payment breaks that had expired by the end of 2020 but which did not return to full contractual payments?** In summary, according to the BPFI data, these comprise almost 8,200 PDH mortgage accounts that were described post-break as not making full payments and being in receipt of 'other forms of lender support' and over 3,150 such accounts that were paying on an extended term. They also include 520 consumer credit (unsecured) accounts in receipt of 'other forms of lender support' and a substantial number of almost 17,000 accounts now paying on an 'extended term'. **Where are these arrangements (a total of close to 29,000 accounts across the two categories) now in terms of payment performance almost a year later?**

**And what of a potential third category - accounts that have encountered payment problems in 2021?** Judging by the public statements from the BPFI referred to above, it seems more likely that borrowers unable to make full payments on loans as a result of Covid in the course of 2021 were dealt with under the lender's arrears procedures, rather than provided with payment breaks, although the case by case approach may have seen some new payment breaks put in place. **How many new arrears cases have occurred and how many payment breaks have been approved in 2021?**

We have seen in Paper Two of this series that the quarterly publication of family home mortgage arrears figures by the CBI enables a watch to be kept on the evolving situation in that domain, though more detailed information would be useful and we have made a number of recommendations in Paper Two in that regard. The CBI mortgage arrears dataset has, for example, enabled us to compare a notable *increase* in the 0-90 days arrears cohort at end Q.4 2020 with a sizeable *decrease* in that arrears cohort at end Q.1 2021. This development led us broadly to the hypothesis that an increase in disposable income in the first part of 2021 may have enabled a number of borrowers to exit arrears or obtain a restructure not previously in place, while a lesser number may have developed an arrears problem for the first time or struggled to meet the terms of their existing restructure due to a reduction in income as a result of Covid.

With payment breaks however, the data trail runs out at the end of 2020, despite some useful research pieces from the CBI in 2020 reviewed above, particularly that which profiled a likely mortgage arrears cohort arising out of Covid,[88] and a clear, if perhaps slightly one-dimensional, dataset from the BPFI at the end of 2020. The failure to document how matters have progressed since is somewhat perplexing, in particular in light of comments attributed to the CBI in November 2020 that it was concerned about the accommodations being offered post-payment break by lenders to borrowers. At that time it was reported that the CBI *'wrote to chief executives of the retail lenders last week saying that while "considerable efforts" had been made by the sector to introduce the payment breaks and draw up plans to support borrowers after the relief period ended, bank's "high reliance on temporary and very short-term forbearance" is an area of concern'.* It was further suggested that the CBI had *'highlighted a "lack of innovation" in the range of loan forbearance options being offered to borrowers'.*[89]

These reports echo other recent research work carried out by the CBI. In Paper 2 of this series,

[88] See Section 5 above.

[89] 'EU watchdog resists calls to revisit payment breaks: EBA says it must ensure the credibility of banks' balance sheet data is not jeopardised', *Irish Times,* 23rd November 2020.

we analysed in some depth the comparatively low level of levels of restructuring currently in place in mortgage arrears cases and the length of time in some instances that it takes to put such arrangements in place. We also reviewed at length a detailed analysis carried out by research staff at the CBI that was critical of the over-emphasis by lenders on short term forbearance arrangements post-Crash, particularly in cases where it had become apparent that the financial difficulties being experienced by the borrower/s were more profound and persistent in nature. In 'Resolving mortgage distress after Covid 19', published in September 2020, analysts at the CBI warned that '*where short-term arrangements are arrived at, it is crucial that firms have capacity and plans to assess longer-term prospects and to move to putting in place sustainable and longer-term arrangements where they are appropriate to the depth of financial distress being experienced*'. [90]



Again, the scale of any spike in arrears on credit agreements as a result of Covid is clearly likely to be far less dramatic than anything seen following the Global Financial Crisis, but nonetheless the case for decisive resolution where it is required is now well established and recommended by the CBI itself. The case for comprehensive data to enable, to monitor and to evaluate resolutions is also now well made in our view, but our analysis would suggest that, particularly insofar as it concerns 2021, it is not widely available.

## Differing treatment of arrears on secured and unsecured debt

The late December 2020, Level 5 restrictions once again graphically illustrated the sudden devastating impact on people's livelihoods with shutdowns in many areas of economic activity, including, once again, retail and construction. New or renewed claims for the PUP payment which had increased dramatically following the December 22nd restriction announcement swelled further in the New Year,[91] and there may well have been fresh applications for payment breaks as a result, though the extent to which these were facilitated is unknown.

In the case of new family home mortgage arrears cases experienced in or as a result of Covid, the terms of the CBI's Code of Conduct on Mortgage Arrears (CCMA) apply, obliging each lender to invoke its Mortgage Arrears Resolution Process (MARP). Although this Code has the merit of imposing mandatory procedures on all mortgage lenders and loan owners when an account goes into arrears (or pre-arrears), our view is that it is significantly imbalanced from a rights perspective and has been inadequately supervised in the past.[92] The CBI should impose a more dynamic, effective and accountable process on lenders, one that focuses on a thorough and transparent assessment of the borrower's current circumstances and future prospects, and prioritises putting in place long term over short term arrangements where they are required.[93]

In light of the data provided by the BPFI at the end of 2020, the likelihood of arrears developing on consumer credit agreements, upon which there has been substantial payment break activity, may also be significant. In the case of unsecured debt, however, there is no specific Code of Conduct to deal with arrears in a systematic manner. The CBI's Consumer Protection Code 2012 (as amended)[94] does contain at Section 8 (see page 64) a chapter on 'arrears handling'[95], which obliges a regulated entity to '*have in place written procedures for*

[90] McCann and O'Malley, ibid. See review in Paper Two in this series: 'Ten years and counting: Conclusions from a decade of attempting to resolve family home mortgage arrears in Ireland'.

[91] 'PUP numbers jump by over 15% in the last week', *Irish Times*, 18th January 2021. It was reported that 460,000 people would receive the Pandemic Unemployment Payment that week - an increase of over 15% over the previous week – and that the increase in claimants of 62,715 reflected the re-introduction of tighter public health restrictions and more business closures. Construction saw the highest weekly increase of almost 75%, rising from 32,152 last week to 56,217 people, following the closure of many sites on Friday 9th January.

[92] Joyce, P. and Stamp, S. (2014). *Redressing the Imbalance A study of legal protections available for consumers of credit and other financial services in Ireland*. Dublin: Free Legal Advice Centres.

[93] This issue will be fleshed out in further detail in the final Paper Four of this series.

[94] Central Bank of Ireland (2020). *Unofficial Consolidation of the Consumer Protection Code (revised 1st January, 2015)*. Dublin: Central Bank of Ireland.

[95] These rules will be reviewed in the final Paper 4 of this series.

*the handling of arrears'*.[96] Although this resembles the CCMA/MARP process to a degree, it is less prescriptive and many lenders are exempted from its terms. Thus, this Code does not apply to Credit Union loans, to Licensed Moneylender's loans or (currently) to Car Finance loans (Hire Purchase, Personal Contract Plans or Consumer Hire Agreements)[97], leaving a substantial number of unsecured borrowers in arrears at the mercy of whatever process a given lender chooses to invoke in such cases.

From a data tracking perspective, this is also where family home mortgages in difficulty and unsecured loans in difficulty part company with each other. The former are updated by the publication of detailed quarterly PDH mortgage arrears figures, though yet more complete data would be welcome; the latter do not seem to be subject to any ongoing monitoring from a statistical perspective, at least not in terms of published data. This remains a significant omission which must be addressed.



### The general evidence from payment breaks

In early 2021, an article in the Irish Times suggested that:

> *There is a glut of savings in many people's bank accounts, the Central Bank reports. But for a whole other class of people the pandemic threatens economic wipeout. And the income tax returns tell us they are in the lowest-paid sectors – that is why the tax figures haven't been hit too badly because they don't earn enough money to pay much income tax'... the pandemic, in other words, is proving to be an economically polarising event, with a strong generational edge'.*[98]

The months that followed this comment suggested that there is much that is correct in this analysis, but we would question whether the financial effects of the pandemic have been as graphically two-tiered at this remove. There are many who continued to work throughout, whether at the physical work location or from home, who have not saved money and who continue to struggle to meet financial commitments. In some cases these commitments increased rather than lessened, with larger utility bills and food bills, and adult children returning to live temporarily in the family home.[99] Many of these households, though living on low incomes, will not have figured in the payment break statistics. These households too may ultimately prove to be vulnerable, as a worrying increase in the cost of living across a range of products and services becomes apparent with the economy opening up.[100]

Recent comments attributed to the Governor of the CBI, Gabriel Makhlouf, suggest that he believes that fears of excessive euro area inflation are overstated and that current price pressures reflect transitory factors that will fade out over time.[101] It is to be fervently hoped that this analysis will prove correct. However, for many living on a tight budget, a spike in inflation, even of a short duration, can precipitate financial pressures that can quickly spin out of control.

Also to be factored into the mix is the tapering or withdrawal of the array of Covid financial supports and the increased public debt bill that will ultimately have to be faced in providing them in the first place. The prospect of further loan sales, as a result of bank restructuring and further impaired family home mortgage accounts impacted by Covid in 2021 and beyond, is also a major cause of concern at this point.

The reality in turn from the payment break evidence we have examined in this Paper is that for some financially affected by Covid, difficulties may become more long term than short term, with those most marginalised and in more precarious employment more likely to face persistent over-indebtedness. In turn without

---

[96] See Rule 8.1, Page 64.

[97] Legislation has been introduced recently in the Dáil that plans to remedy this deficiency – See the Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Bill 2021.

[98] 'It hangs in the balance if the pandemic will change the political landscape', *Irish Times*, 9th January 2021.

[99] Stamp, S. (2021). *Social Distancing on the Margins: COVID-19 & Associated Issues for Dublin Region MABS Clients.* Dublin: Dublin South MABS and North Dublin MABS.

[100] See for example: 'Consumers see bills increase by as much as €805 as 'energy crisis' worsens', *Irish Examiner*, 2nd October 2021.

[101] "Fears of 'excessive' euro zone inflation overstated", www.rte.ie 17th September 2021

more detailed examination and tracking of the data and engagement with affected borrowers, it is a stretch to assume that payment breaks on family home mortgages, where the borrower ostensibly resumed full repayments, brought the borrower's financial difficulties to an end. Many other factors, outlined in detail above, in particular the borrower's realisation that the payment break may actually worsen his/her financial situation, may also have been influential in bringing payment breaks to a premature end. In addition, the extent to which household savings have been eroded in order to avoid going into (or continuing to be in) mortgage arrears is a factor worthy of examination. Insofar as it concerns the position with payment breaks on non-mortgage consumer credit agreements, the level of detail on resolution is poor but there are worrying questions over the finding that approximately half (about 17,000) of the relevant borrowers were said to be paying on an extended term at the end of 2020.



The evidence drawn from the various data sources examined for this Paper may be far from compelling but it is, by any reasonable measure of vigilance, sufficiently worrying to merit a pro-active approach, especially in a country yet to resolve a substantial number of consumer debt cases from the last recession. In broad terms, the current data, such as it is, would suggest that a number of existing mortgage arrears cases may be resolved while some are likely to worsen, especially those that fit the worrying profile set out in the CBI's third research piece reviewed above. These feature accounts that variously include a history of previous forbearance, the drawdown of the mortgage in the years immediately prior to the Global Financial Crash (GFC), high loan to value ratios, high loan to income ratios, working in a sector or county where applications for the PUP payment are higher than average, and having been in receipt of a payment break. None of this should really come as a surprise.

The picture in relation to unsecured debt liabilities is less clear. Both the CBI and BPFI research pieces assessed above only really document the numbers of consumer credit agreements with payment breaks, with no analysis of *who* may be particularly affected and *what* types of consumer credit agreements are involved. It may be that the sector specific trends identified in terms of the propensity to seek payment breaks on residential mortgages may to some extent be replicated with unsecured debts. Other debt obligations – utility bills in arrears and rent arrears for example - are also likely to come back into focus now that lockdown restrictions have been removed, and repaying these debts may be similarly exacerbated by the removal or tapering of payment supports and assorted moratoria and the current spike in energy costs. It should also be stressed that there is no specific regulatory Code of Conduct in place to pro-actively resolve these debts as part of a collective approach.[102]

Broadly, the evidence suggests that a number of consumers will suffer an inability to pay unsecured debts as they fall due — the definition of insolvency within the meaning of the Personal Insolvency Act 2012 — when the dust settles following the pandemic. At that point, speedy access to potential solutions under the Personal Insolvency Act for those with unsecured debt only — Debt Relief Notices (DRN) and Debt Settlement Arrangements (DSA) — will be critical. Moreover, demands on MABS services will likely increase considerably.

Whether the distressed debt involves mortgages, consumer credit agreements or utility arrears, it will simply not be good enough, in light of this evidence, to sit back and wait for any potential damage to intensify. We must collectively as a society make sure that the distress of Covid is not followed and exacerbated by the stress of over-indebtedness. In order to ensure this, we need speedy and user-appropriate access to support services for those in difficulty, up-to-date and reliable data, decisive resolution mechanisms, and vigilant and pro-active regulation.

[102] There are, however, voluntary protocols agreed between MABS, the Banking and Payments Federation Ireland (BPFI), and utility providers. See for example:
https://www.mabs.ie/downloads/news_press/BPFI_MABS_protocol_public_facing_FAQ_Feb2017.pdf

flac

promoting access to justice

85/86 Dorset Street Upper
Dublin 1
D01 P9Y3

t 01-887 3600
e info@flac.ie
w www.flac.ie

Printed and Designed by
Printwell Design