Annex

The Central Bank's expectations in relation to applying the costs and charging interest on the costs

I. Application of the costs

General Principle 2.1 of the Consumer Protection Code 2012 ("the Code") provides that in all dealings with consumers, a regulated entity must act *"honestly, fairly and professionally in the best interests of its customers and the integrity of the market."*

The Central Bank is of the view that the application of the costs prior to the conclusion of repossession proceedings and prior to the decision by a Court to award the costs associated with the legal process to the regulated entity is not in borrowers' best interests and is therefore not in accordance with the Code. Additionally, the Central Bank is of the view that it is not in a borrower's best interests or in accordance with the Code to apply the costs prior to settlement between the parties concerned or prior to a borrower being in a position to redeem the mortgage and requesting to do so.

For clarity, regulated entities **must not** apply the costs to a mortgage account until:

a. the Court has awarded the costs to the regulated entity;
b. a settlement has been agreed between the parties; or
c. the borrower is in a position to redeem the mortgage and has requested to do so.

II. Charging interest on the costs

Regulation 29 (2) of the CMCAR provides that *"Any charge that a creditor may impose on a consumer arising from the consumer's default, subject to the provisions of section 149 of the Consumer Credit Act 1995 and any requirements that may be imposed by the Central Bank from time to time, shall be no greater than is necessary to compensate the creditor for the costs it has incurred as a result of the default".*

Charging interest on the costs equates to a gain on these charges and therefore, as it is greater than is necessary to compensate the Firm for costs it has incurred, it is contrary to Regulation 29 (2) of the CMCAR. Accordingly, at no point should interest be charged on the costs.

Although it is noted that Regulation 29 (2) of the CMCAR only applies to mortgage credit agreements entered into from 21 March 2016, it nonetheless sets the level of protections expected for mortgage holders. In the interest of treating customers fairly and equally, the Central Bank expects that equivalent protections provided by Regulation 29 (2) of the CMCAR should also be afforded to all mortgage credit agreements, irrespective of when the agreement was entered into.