



STATUTORY INSTRUMENTS.

S.I. No. 47 of 2015

CENTRAL BANK (SUPERVISION AND ENFORCEMENT) ACT 2013
(SECTION 48) (HOUSING LOAN REQUIREMENTS) REGULATIONS
2015

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

Citation

1. These Regulations may be cited as the Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Housing Loan Requirements) Regulations 2015.

Definitions

2. (1) In these Regulations:

“appraiser” means the individual appointed by a lender to determine the market value of a residential property in accordance with Regulation 7;

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

“Bank” means Central Bank of Ireland;

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

“durable medium” means any instrument that enables a lender to store information in a way that renders it accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;

“first-time buyer” means, subject to paragraph (2), a borrower to whom no housing loan has ever before been advanced;

“high loan-to-income housing loan” means a housing loan advanced by a lender in respect of a residential property under which the total amount advanced is greater than a multiple of 3.5 times the borrower’s income;

“housing loan” means the amount advanced or the total sum of amounts advanced by a lender to a borrower which are or are to be secured on a residential property;

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

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 10th February, 2015.*

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

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

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

$$\text{LTV} = \frac{L}{V}$$

Where:

LTV = loan-to-value ratio

L = the total amounts advanced under the housing loan

V = the value of the residential property;

“market value” is the market value assessed in accordance with Regulation 7, and means, in relation to a residential property, the estimated amount for which the residential property should exchange on the date of valuation between a willing buyer and a willing seller in an arm’s-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion, and “market valuation” shall be construed accordingly;

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

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

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

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

“relevant period” means the date of the making of these Regulations up to and including 31 December 2015, and, thereafter, the period from 1 January up to and including 31 December;

“residential property” means:

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

“value” means:

- (a) where the borrower already has a housing loan secured on the residential property, the market value of that residential property; or
- (b) where the housing loan agreement is entered into for the purpose of:
 - (i) purchasing land with the intention of constructing a building on that land; or
 - (ii) constructing a building,

the value is the market value of the land on which the building is to be constructed, and the estimated cost of construction of that building at the time of entering into the housing loan agreement; or

- (c) in any other case, the price agreed in the contract of sale between the buyer and the seller for the residential property excluding associated costs for such sale, such as legal fees and stamp duty or, if lower, the market value of the residential property.

(2) Where the borrower under a housing loan is more than one person and a housing loan has previously been advanced to any one of those persons, none of those persons is a first-time buyer.

(3) Where the borrower under a housing loan is more than one person, all borrowers will be regarded as borrowers under negative equity loans where any one or more of the persons under the housing loan is a borrower under a negative equity loan.

(4) Where a borrower under a housing loan is more than one individual, and at least one of those individuals occupies the residential property or intends to occupy the residential property as a principal home, that residential property is a principal home for the purposes of these Regulations.

Scope of the Regulations

3. (1) These Regulations shall apply to a housing loan secured or to be secured on residential property in the State.

(2) A lender shall not:

- (a) engage in a practice,
- (b) enter into an arrangement or transaction,
- (c) execute a document, or
- (d) structure or restructure a loan,

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

Exemptions

4. (1) These Regulations shall not apply to:

- (a) a new housing loan under which amounts are advanced by the lender to refinance the full amount outstanding under an existing housing loan, where the new housing loan is secured or to be secured on the same residential property as the existing housing loan, and the amount to be advanced under the new housing loan does not exceed the amount outstanding under the existing housing loan (whether or not the lender in respect of the existing housing loan and the new housing loan are the same). In determining the amount advanced under the new housing loan no account shall be taken of:
 - (i) arrangement fees,
 - (ii) professional fees and costs, or
 - (iii) administration costs,
 payable in respect of the new housing loan;
- (b) a housing loan provided under a housing loan agreement entered into prior to the date of the making of these Regulations;
- (c) a housing loan the purpose of which is to address the arrears or pre-arrears of the borrower on an existing housing loan by agreeing alternative repayment arrangements;
- (d) without limiting the generality of paragraph (c), a housing loan entered into as part of the Mortgage Arrears Resolution Process described in provision 16 of the Code of Conduct on Mortgage Arrears issued by the Bank;

(e) subject to paragraph (2), a housing loan where the borrower has prior to the date of the making of these Regulations received from the lender a written approval in principle to make that housing loan.

(2) In order for a housing loan to be excluded from the scope of these Regulations under paragraph (1)(e), the lender must, prior to the lender issuing an approval in principle to make the housing loan to the borrower, have undertaken a full credit assessment of the borrower's ability to repay the housing loan.

Loan-to-Income

5. A lender shall ensure that the total aggregate monetary amounts advanced to borrowers under high loan-to-income housing loans made for principal home purposes in a relevant period shall not exceed 20 per cent of the total aggregate monetary amounts advanced to borrowers under housing loans made for principal home purposes by the lender in that relevant period.

Loan-to-Value

6. (1) Subject to paragraph (2) of this Regulation, a lender shall ensure that:

(a) the loan-to-value ratio of a housing loan where the borrower is not a first time buyer and the residential property on which the housing loan is or is to be secured is a principal home shall not exceed 80 per cent;

(b) the loan-to-value ratio of a housing loan where the borrower is a first-time buyer and the residential property on which the housing loan is or is to be secured is a principal home shall not exceed the maximum loan-to-value ratio calculated in accordance with the Schedule.

(2) A lender shall ensure that the total aggregate monetary amounts advanced under housing loans made for principal home purposes that do not comply with paragraph (1) shall not exceed 15 per cent of the total aggregate monetary amounts advanced to borrowers under housing loans made for principal home purposes in that relevant period.

(3) Subject to paragraph (4) of this Regulation, a lender shall ensure that the loan-to-value ratio of a housing loan which is not made for principal home purposes shall not exceed 70 per cent.

(4) A lender shall ensure that the total aggregate monetary amounts advanced under housing loans that do not comply with paragraph (3) shall not exceed 10 per cent of the total aggregate monetary amounts advanced to borrowers under housing loans which are not made for principal home purposes in that relevant period.

(5) This Regulation shall not apply to a new housing loan for the purchase of a principal home advanced to a borrower who is at the time that the housing loan is advanced a borrower under a negative equity loan.

Valuation of Residential Property

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

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

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

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

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

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

L.S.

Signed for and on behalf of the CENTRAL BANK OF IRELAND
on this the 9th day of February 2015.

PATRICK HONOHAN,
Governor of the Central Bank of Ireland.

SCHEDULE

The maximum loan-to-value ratio shall be the amount, expressed as a percentage, calculated as follows:

$$\frac{A + B}{V}$$

Where:

A = an amount equal to 90% of the value of the principal home up to and including the amount of €220,000

B = an amount equal to 80% of the amount (if any) of the value of the principal home in excess of €220,000

V = the value of the principal home

EXPLANATORY NOTE

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

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

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

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