

MORTGAGE INTRODUCER –QUESTIONS FROM HELL FEBRUARY 2010. -BILL WARREN

Fast and furious might be the other label applied to the FSA activity currently to go with their stated; several times recently, intention to be more intrusive and intensive. One could ask has the intensity got too much for the out going chief executive Hector Sants or is he jumping before there is an election despite not being a politician!!

The number of Consultation papers issued by the FSA over the last two weeks could certainly be described as intrusive by those that have to read them, understand them and interpret the content to the demands of colleagues clients and others eager to understand the implications, potential costs and impact upon business volumes that they possess. The three critical consultation papers issued in the last week of January have been of great significance to lenders, intermediaries and in particular those providers and intermediaries involved in the Sale and Rent Back segment of the market. The final rules marking almost the end of a very short and therefore challenging time for firms involved in what has been historically a much maligned market place. The final regulatory requirements and their speed of introduction will further cement the SRB sector as a professional sector sitting comfortably alongside existing regulated business sectors. The three consultation papers covering Corporate Governance(Significant Influence Functions-Approved Persons),Arrears and Approved Persons (Home Finance) alongside Sale and Rent Back adds up to 376 pages of fairly detailed and intense reading. The two former papers are of major importance to the mortgage and general insurance markets and firms as they set out very clearly how the FSA expects firms to evolve from both a management and control perspective and most importantly a risk approach to business. The re-introduction of certain key significant influence functions within larger lenders, insurers and other firms is clear evidence of the FSA wanting to prevent some of the miss-management

events of the last three years or more. The return to Home Finance firms needing to appoint an approved person in the CF10 role i.e. an individual having responsibility for Home Finance compliance within the firm will have a significant impact upon many firms. This in addition to Home Finance advisers also having to become approved persons will add to the drive for higher standards and controls, much as was the case under the old Mortgage Code. This all adds up to a much tighter regime of responsibility and control, making the regulators life easier!

Q1. My firm is comparatively small with ten advisers and external compliance support. Will the new mortgage adviser and compliance approved person rules mean we have to employ, at a not insubstantial cost an internal compliance person? We do have plans to increase our number of advisers to approx 40 by the end of this year but have not budgeted for an additional person for compliance.

A1. Not necessarily the rules I believe give you the scope to appoint an existing director/partner/senior manager into the CF10 position. The key being that they need to be able to demonstrate competence and capability, which in a firm of your size probably means all of your partners/directors, are closely involved in compliance issues, so could take the responsibility.

Q2. The FSA statements that all mortgage advisers must become approved persons will threaten the position of several advisers who over the last 3 years have perhaps suffered similar financial difficulties to that of their clients and may find it difficult to meet any financial requirements. What are the requirements that the advisers have to meet to be approved?

A2. There are three listed in the proposed rules by the FSA and they are the same as for those within the CF10 position now within investment firms.

- Honesty Integrity & reputation

- Competence and Capability
- Financial Soundness.

Firms submitting applications will need to address each of these points very carefully to convince the FSA, should they need to that an individual is suitable? This would include taking references if appropriate, undertaking credit checks, providing evidence of competence e.g. CPD records or appraisal documents and perhaps an assets and liabilities statement, along with a disclosure from the CRB for single directors and sole traders. If you haven't looked at a FSA Form A (application for approved person status) for a while it would be worth doing so particularly as the FSA will be adding questions shortly relating to Home finance firms and business.

Q3. Will the approval of financial promotions to be used by Sale and Rent Back firms be any different to the MCOB rules operated now?

A3. No the rules relating to approval, recording and regular reviews will be the same. The main difference is in the use of certain words and phrases that are used widely at present to describe elements of the SRB business environment. Words such as rescue, fast sales and cash sales are banned. Very crucially firms must appoint a person (internally or externally) who has the experience and knowledge to "approve" their financial promotions confirming on each occasion that the content meets the FSA rules as specifically applied to Sale and Rent Back financial promotions