

MORTGAGE INTRODUCER –QUESTIONS FROM HELL JULY 2009-BILL WARREN

As the mortgage industry battles on to claw itself back towards a sense of reality or least an acceptable flow of products and funds, which consumers can believe, actually exist the vultures continue to circle. Whilst there are signs on some days that a little life and sanity is returning to at least save more brokers and even purchasers and existing borrowers from the brink of despair, each small portion of optimism is usually quickly followed by a negative or a perception of such.

The combination of the Government, the governor of the Bank of England and other influential figures seemingly fighting their corner for more control over the banks in particular is a sad indictment of how far we have sunk from being one of the most respected countries in the world in the sphere of financial services and controls. The tripartite agreement seems to have fragmented even more with blame for the credit crunch being passed around like the proverbial parcel. Perhaps those involved should step back and consider what damage they are doing not just to their own credibility but more importantly to the businesses and consumers they are supposed to protect and support. The one political party with clear thoughts and ideas as to how to put the economy and in particular financial services back into a forward gear with the necessary clarity, are criticised for having the terrible thought of actually leading the country, something that is so badly needed, we can but hope.

The bad news from Lloyds Banking Group that the C&G branches are to close brings closer the end of mortgage lenders that seemed to have the customer at the forefront of their business and had been able to sustain a reputation for quality. It was not so long ago that C&G led the mortgage industry and were envied by their competitors. Lloyds Banking Group may regret their decision not to axe other brands whose history is less credible.

Perhaps the biggest impact on the intermediary industry in recent weeks is yet to be fully debated and the implications fully understood. The public concerns expressed by the FSA Consumer Panel relating to the FSA's enforcement policy and approach to orphaned broker clients could have a huge impact on lenders and intermediaries. Watch this space over the next two to three weeks is the word!

Q1.The arrival of regulation of the Sale and Rent Back business has generated apathy in some intermediary firms and genuine enthusiasm in others it seems. Is it true though those private individuals who only perhaps purchase one or two properties a year can continue to do unregulated? Surely this is not fair.

A1.Yes the Interim regulations do permit those who only occasionally purchase for sale and rent back to remain unregulated. The FSA apply the business test to these situations, so if the individual or firm do not undertake sale and rent back as part of their core business they fail the business test. However the FSA will normally apply a "number of transactions" to such situations. I believe, although I have not seen evidence to support this that in the sale and rent back market more than two or

three transactions becomes “by way of business”. This is a strange scenario given the OFT’s report of so many abuses in the sale and rent back market, often by armchair investors as they have become known.

Q2. Do you believe that the increased size of fines proposed by the enforcement department of the FSA in the intermediary market will do any good?

A2. As has been stated many times by important players in the mortgage intermediary market such as AMI the removal of the seriously non compliant and fraudulent intermediaries helps to repair the reputation of brokers. That said I personally believe that larger fines in the way intended will act as a deterrent as will the FSA’s recent decision announced only last week to apply for a bankruptcy order against a broker who failed to pay fines applied. I do wish however that the FSA process allowed the FSA to persuade firms to bring in technical assistance at an earlier stage to help a firm address possible shortcomings identified by the FSA, protecting clients at a much earlier stage, rather than perhaps not at all if the firm can’t pay fines and closes its business for example, with then no action being taken by the FSA as no-one can pay.

Q3. I have read that a new trade body has been established for equity release advising firms and individuals. Is this something AMI is involved in and where can I get details?

A3. Yes a new trade body named the Independent Equity Release Adviser Alliance has been established from 1st July. It is the brainchild of Anthony Harris an IFA from Oak Financial (SW) Ltd based Taunton in Somerset. Information relating to the aims, client charter and membership can be found on their website. AMI are not involved other than supporting the launch of an organisation seeking to achieve excellence in the client advice arena.

Q4. I have noticed various comments from the FSA hierarchy in particular about mortgage affordability and their desire to regulate just what individuals can borrow, ban self-certification cases and how this will be addressed in their mortgage review. Is this not a violation of the individual’s human rights, no right of choice?

A4. It is true the FSA, and the government as you will have read are eager to prevent the explosion of easy credit that they believe led to the credit crunch! A few other things contributed also I think! There does seem to be a genuine appetite within the FSA to prevent unaffordable credit fuelling more consumer hardship and problems for lenders. If the ideas you state are implemented it might be good for lenders, easy life no real competition, not so good for brokers and really only one loser the consumer again! This is something which I am sure AMI is aware of and no doubt will be doing something about. An industry solution would be much more preferable than regulation that would take the country’s mortgage borrowers back over 30 years.