

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

As spring and summer get rapidly closer the positive feeling this brings is being echoed by the arrival of more mortgage products and lenders. The consultation papers issued by the FSA in January and February have continued to occupy many mortgage lenders and intermediaries thoughts as decisions are debated or decided relating especially to the new Approved Person compliance category for Home Finance firms CF10. As firms start to consider who will hold this controlled function within their firms the full implications of the responsibilities involved have been reaffirmed. The FSA rules within SYSC 3.2.8R and within the Supervision section of the FSA handbook starting at 10.7.8 make it very clear what is expected. Those firms that have compliance teams and departments will find it slightly simpler to decide which senior manager or director will hold the CF10 function. However smaller firms will need to add this responsibility to an existing director/partner or senior manager, although they can be supported by a compliance consultant in relation to the required activities. Whichever way the decision is arrived at it could add cost for firms still striving to survive. One of the major responsibilities for the CF10 will be the management and control of their firms advisers who themselves will become approved persons and therefore subject to the approved persons regime at the same time as the CF10 position. Fit and proper checks, evidence of competence and credit checks will all come into play. This latter point could be of serious concern to many advisers who like so many of their clients will have suffered a downturn in income levels and therefore potential credit problems over the last two to three years. How will the FSA view this issue as it arises? The Association of Mortgage Intermediaries have I believe taken this point up with the FSA so we will have to wait no doubt until nearer the implementation date for the CF3 I s before knowing the response I assume.

In the day to day world of advising clients and creating a living the increases reported by the product sourcing firms of increasing numbers of products is very encouraging. The challenge for many mortgage advisers will continue to be how do I ensure my client or prospective clients stays with me when so many organisations whether lenders or on line facilitators are chasing the client? The bundling of mortgage products has increased and therefore the knowledge and competence of advisers will continue to be severely tested as the market starts to expand again and not surprisingly consumers continue to demand the very best personal service, despite the attractions offered by the “electronic offerings” available. As Phil Whitehouse the Head of The Mortgage Alliance wrote recently the more complicated products can play into the astute brokers hands, but the hands need to be open!

Q1. One of my clients who also obtained some advice from one of my competitors happily came back to me. When he did he told me that the other firm said I was breaking the law, as the content of my disclosure documentation was wrong. Can you tell me what has changed recently as I use a reputable company to produce my disclosure documents that say their documents are up to date?

A1. Without seeing the document involved I can only assume they are referring to the fairly recent changes in the Financial Services Compensation Scheme figures towards the end of your disclosure document.

Q2. In the recently published final rules for Sale and Rent Back business there is reference in the affordability section to both the use of any lump sum that becomes available to the SRB seller (client) and to the responsibility for checking any impact the transaction will have on the client’s benefits or potential benefits. How much of the lump sum can be used to support affordability and who has responsibility for checking the benefit position and how can it be done?

A2. Just a few questions then-the rules as currently written state that the amount of any lump sum available that could support affordability must not be material. No percentage or monetary amount is quoted, the FSA would I am sure prefer it if none of the lump sum was considered, however common sense says probably any more than fifteen percent could be material I guess. The SRB provider has to ensure that the benefits position is checked prior to making an offer. This can be done by either sending the “client” to the appropriate government department to obtain evidence, which is sometimes difficult for a wide variety of reasons or checking themselves or perhaps using a reliable “system” such as Ferret. The SRB provider can accept the intermediary’s evidence providing they are satisfied that it is bona fide.

Q3. From talking to colleagues, competitors and reading some of the material published it appears the FSA are now becoming stricter with advertisements within the websites of both regulated and unregulated firms. Is that true?

A3. I am sure the FSA would say they have always been strict on website advertisements and I know they have been. What I suspect has happened is that the FSA financial promotions team have become aware of the increase in lead generating websites and are increasingly looking closely at their content and where the “leads” are going. I am certainly aware of unregulated firms receiving letters from the FSA pointing out that they are breaking the law by advertising financial services or products without being FSA authorised or having their adverts approved by a authorised person.