

MORTGAGE INTRODUCER –QUESTIONS FROM HELL NOVEMBER 2009-BILL WARREN

The mortgage industry has most recently has been digesting the potential implications of the FSA's publication of their Mortgage Market Review document DP09/3.

A select number of proposals have dominated both the national and trade press comments due, as you would expect to their severity and far reaching impact upon the mortgage industry generally and the intermediary community in particular. Much has been said about the proposal to ban self certified mortgage loans and introduce more stringent affordability checks and no surprise that this is reflected in the questions I have received. In relation to both of these specific proposals it could be argued that the only actual change proposed is the intensity (a very in FSA word currently) and supervision of the lenders affordability checks to support responsible lending and to ensure that borrowers can actually afford the loan repayments involved. Existing MCOB rules require this but they perhaps do not have the prescriptive detail behind them, allowing interpretations to become vague and often abused for market share and commercial gains, all of which is well known to those steeped in the mortgage market in recent years. The real differential perhaps now is that in the context of these two activities it is clearly stated it is the lender's ultimate responsibility to ensure that income is evidenced and affordability accurately assessed in line with the proposed new rules. What has become redundant rather than banned is the description self-certified.

Only in the past few days at this years' Expo at Olympia Lesley Titcombe the FSAs' Retail Firms Director and small firms champion has made it clear that what the FSA have said should happen is that potential borrowers income must be verified by sensible and pragmatic means which the FSA fervently believes can be done. The FSA are not stipulating how this should be

done but that it must be done and there is subtle difference I believe.

Add in the recommendation to add second charge loans and Buy to let to the FSA's responsibilities makes a great deal of sense both from the consumer and the intermediary perspective. The consumer gets the greater protection and the intermediary the potential simplification and therefore cost savings involved in working basically to one set of rules.

Whether those working exclusively in the second charge market place would agree with me of course is something else, but the broker involved in both activities I think would react positively to saving money especially!

The Mortgage Market Review is a discussion paper so the content and proposals can still be changed if the FSA are convinced by the responses from the mortgage industry. Whilst many firms are members of the Association of Mortgage Intermediaries (AMI) who will respond fully to the paper, it remains critical that individual firms and individuals from those firms do actually respond also, even if it is to just a very few of the questions rather than all 33! This is a major review as I am sure everyone knows and the more firms and individuals that respond the better as this will shape the mortgage compliance arena for the next three to five years most likely.

Q1. I read recently that the FSA were concerned about the problems associated with stand-alone financial promotions. I am not really sure what they mean by stand alone in this context as my firm find producing and signing off financial promotions quite difficult, as we are too small to warrant employing a compliance officer?

A2. The FSA did issue an industry update, Number 3 in late September on the subject of stand-alone compliance in financial promotions as you say. Their concern is to ensure that firms' financial promotions are fully compliant when actually published. The FSA said that many firms were tending to use

financial promotions that did not contain either all of the benefits or features of the product being advertised or had omitted key health warnings. They were not delivering the clear fair and not misleading messages required and of course firms were then being accused of not treating their customers fairly. Non-compliant financial promotions can be very expensive mistakes, so it is often good practice if the firm doesn't have the expertise to seek guidance from a compliance firm or individual via training or signing off the promotions.

Q2. Our firm has always taken affordability seriously in advising our clients in line with the existing MCOB rule requirements. What do we need to do differently following the mortgage market review proposals that we don't do now? We always try to see payslips and/or P60's.

A2. The biggest difference will be that the affordability test will be based upon the borrowers free disposable income. This alongside the requirement for lenders to assess affordability also based on the consumers borrowing capacity, and on a repayment basis. So no interest only cases can be processed unless they have passed the affordability test based on a repayment basis. The other key factor will be the plausibility of the information obtained, which is also where the intermediary can help the consumer and lender a great deal by being able to obtain confirmation should it be necessary that the income is genuine. My suggestion would be use a budget planner if you don't already now and expand to clearly show the disposable income after normal outgoings. The Home Buyer System has a really good one for example.

Q3. The Mortgage Market Review states that all compliance officers/managers within mortgage firms will become a controlled function. We use a compliance consultant will they have to be approved by the FSA?

A3. Yes the individual from your compliance firm who carries out your work will have to be approved by the FSA as a controlled function (CF) or an approved person as also described. They will have to meet and pass the FSA's fit and proper tests just as any other approved person has to.