



Association of
Mortgage Intermediaries

Association of Mortgage Intermediaries' response to CP20/10: Extending implementation deadlines for the Certification Regime and Conduct Rules

This response is submitted on behalf of the Association of Mortgage Intermediaries (AMI) and the Association of Finance Brokers (AFB). AMI is the trade association representing over 80% of UK mortgage intermediaries. AFB sits within AMI and represents second charge (formerly secured loan) brokers.

Intermediaries active in this market act on behalf of the consumer in selecting an appropriate lender and product to meet the individual consumer's mortgage requirements. AMI members also provide access to associated protection products. AFB members also provide access to unsecured products.

Our members are authorised and regulated by the Financial Conduct Authority (FCA) to carry out mortgage, insurance mediation and consumer credit activities. Firms range from sole traders through to national firms and networks, with thousands of advisers.

Q1: Do you agree with our proposed approach?

Base consultation

AMI welcomes the proposal to extend the deadlines for the requirements (certification assessments, conduct rules training and directory persons reporting) under SM&CR to 31 March 2020.

We feel that the messages contained in the consultation paper are important, to ensure that the regime remains high on firms' agenda as the operational and financial pressures of coronavirus continue to challenge, but this cannot detract from the importance and significance of SM&CR. We acknowledge the statement that firms are encouraged to complete the requirements by the original deadline if possible.

However, we ask that the FCA remains flexible in terms of expectations and the revised deadline date should the UK be affected by a 'second wave' of coronavirus and a return to stricter lockdown. This is because staff that have been 'un-furloughed' could be furloughed again between now and the end of October; this could include key personnel involved in the management, oversight, and training of the SM&CR requirements.

Certification

With regards to issuing certificates and fitness, in annex B of the consultation paper it states that a certificate issued before 31 March 2020 will not be effective should the firm embrace the extension to March 2021. We agree with this approach as it is important that certificates are only valid for a period of 12 months and from the date of issue. This ensures that individuals are regularly assessed and verified as competent and suitable to carry out their job. However, we feel that this is implicitly rather than explicitly implied as this detail is contained within the draft handbook as an annex rather than in the CP. It would be helpful if this is made clearer to firms in the Policy Statement (PS).

Related IT issues

We also want to express our concerns about the IT issues that the FCA has experienced with the Directory (in a recent update, the FCA has stated that it has experienced 'operational challenges when processing some bulk data file submissions from dual regulated firms at peak periods'). The ability of firms to bulk upload their data is fundamental and given the pressures firms face due to coronavirus, a frictionless and efficient upload process is crucial. We understand that the FCA will provide further communications on this matter and we ask that this is provided as soon as possible, so that firms can understand the implications, limitations and benefits of using the multiple-entry template and as a trade body we are equipped with information to discuss the approach with our member firms.

It is important that the FCA can demonstrate a live working version of the Directory in sufficient time ahead of 9 December 2020. AMI would welcome discussions with the relevant FCA team as to when this will be available and so that a trade association 'show and tell' event can be arranged. If a working version is available to view, this may give firms the confidence to submit data earlier to help alleviate FCA operational issues caused by high volumes.

We note that the consultation states that the FCA 'may, for example provide landing slots to firms to ensure high volumes can effectively be processed'. We ask that the FCA provides information on how this process will work as soon as possible, given that the FCA expects that most firms will be able to implement and embed the submission of Directory persons information by the original deadline. It would be useful for firms to understand, for example, the duration of the landing slots and how these will be allocated. We agree with the comments made around how there is likely to be high demand, as many firms may wait to upload their data closer to the deadline date.

On 17 July 2020, the FCA published a press release which states that 'the FCA will still publish details of certified employees of solo firms starting from 9 December 2020 on the FS Register'. This contradicts section 1.2 of [PS 19/7](#), which states that 'the FS Register will continue following the extension of the Senior Managers and Certification Regime (SM&CR) but will contain fewer individuals. This is because only individuals for specified Senior Manager roles at FSMA firms will then be approved and so appear on the FS Register'. We ask for clarification on this inconsistency, as it is unclear whether this is an error or whether there has been a fundamental change to the extent of information that will be shown on the FS Register. If the latter, this does not form part of the consultation (CP 20/10).

The FCA should provide an explanation on the Directory landing page as to why some individuals may show in the search results whilst others may not until a later date (e.g. a brief explanation of the extension). This explanation should also extend to how protection and GI only advisers are not captured by SM&CR so will not appear on the Directory. This proactive approach will help to avoid consumer misunderstanding, maintain consumer confidence and market integrity.

In addition, we have noticed that the recently launched new FS Register is displaying inaccurate results when using specific search criteria. To illustrate, when inputting a postcode and ticking 'mortgages' it displays, dependent on the postcode used, home improvement companies. These appear to be Appointed Representative (AR) firms or in some cases Introducer Appointed Representatives (IAR) where the authorised principal firm may (correctly or incorrectly) have consumer buy to let permissions. We have flagged this to our FCA contact but we feel it is important to specifically mention the anomaly as part of this formal consultation. It is important that the FS Register displays the correct information so that consumers are not misled and to enable trust in and use of the service.

Wider implications

We have previously asked the FCA to consider, in conjunction with Treasury, whether now is the opportune moment to align the regimes applicable to Directly Authorised (DA) and AR firms, as AR firms are not captured within the existing certification regime and are still subject to the approved persons (AP) regime. AMI feels that a level playing field between firms is important and further strengthens the core messages to manage conduct across financial services. As the changes proposed in this paper require legislative change this would be an appropriate opportunity to also deliver a regulatory level playing field.