



Association of Mortgage Intermediaries' Response to FCA's Consultation Paper – CP15/06 Consumer Credit changes

This response is submitted on behalf of the Association of Mortgage Intermediaries (AMI). AMI is the trade association representing over 80% of UK mortgage intermediaries.

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. Our members also provide access to associated protection products.

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

Introduction

Historically many firms held the OFT consumer credit licenses across a range of categories as they were simple and cheap to obtain, lasted for life and only recently had they been subject to a fee every five years. In the world of mortgages, firms held these to meet their legal requirements and they had not worried about the technicalities as the FCA principles and MCOB rules governed their activity.

The current regime not only brings steeply different cost for activity that is very marginally captured, but imposes an unnecessary burden on firms to hold permission for an activity which is really part of their intermediation. An example is dealing with refinancing of buy-to-let agreements where the purpose is to raise funds for reasons such as debt consolidation or commercial.

HM Treasury has confirmed that the requirement to hold a permission to broke unregulated buy-to-let agreements will be removed from March 2016. We understand that this removal includes requiring firms to hold a consumer credit permission for activities which are captured as part of their intermediation, such as the example above, but not for activities such as debt counselling. We would welcome confirmation from the FCA that this is the case.

Responses to Questions

Q1: Do you agree that the rules in PS14/18 should be retained? If not, please explain what changes you would propose and why.

We agree that the rules regarding cancellation rights, transparency and web domain reporting introduced in January 2015 which apply to all credit brokers, including agreements secured on land, should be retained.

Q3: Do you have any comments on our proposed minor changes to the CONC rules on credit brokers?

No.

Q4: Do you have any views on remuneration processes for brokers, or on the specific issues raised in this chapter?

Credit broking covers a wide range of activity. We are concerned with applying a blanket approach to remuneration while broking of second charge mortgages is still a credit broking activity. This is a very different market to those broking high cost short-term credit loans for example.

AMI is strongly in favour of retaining commission and procuration fees for both first and second charge brokers.

Q19: Do you have any comments on the proposed changes to CONC resulting from the transfer of the second charge regime?

We believe that certain activities should not require mortgage intermediaries to hold a consumer credit permission. Such activities include a broker to hold a permission to deal with refinancing of buy-to-let agreements where the purpose is to raise funds for reasons such as debt consolidation or commercial. We believe this requirement is an unnecessary technical extension as they are merely facilitating the financing and not advising on the debt consolidation.

Whilst we are glad to see that such activities will not require consumer credit permission from March 2016, this exemption will not apply to brokers dealing with historic mortgage loans. We believe it is unreasonable for these brokers to hold a consumer credit permission merely for this activity as they are already accountable under both the broader FCA principles and specific conduct rules.

Q20: Do you agree with our approach to implementing the MCD for lending not secured on the home?

We agree with the FCA's approach to apply additional protections in MCOB for consumers, who will no longer benefit from the Consumer Credit Act protection.

Q21: Do you agree with the additional MCD changes proposed?

We do not have any comments on the proposed changes to MCOB, CONC or PERG.