



## **Association of Mortgage Intermediaries' response to FCA CP16/02 Mortgage Credit Directive: Minor changes to rules and guidance**

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. Approximately 70% of all UK mortgage transactions are advised by intermediaries.

Our members are authorised and regulated 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.

### **Response**

We disagree with the proposed last minute change to the Mortgage Credit Directive (MCD) rules around disclosure, which we believe is to the detriment of consumers.

We are surprised that whilst the FCA has reviewed its gold-plating of rules in this area, it has not recognised it has gone further than the MCD requirements in the European Standardised Information Sheet (ESIS). The ESIS requires intermediaries to explain how they are remunerated, including commission payments received. The FCA in transposing these rules has prescribed that only commission paid to the firm giving the advice should be disclosed, and it specifies that no payments made to third parties should be included.

This is not what the Directive sets out, nor is it the intention. We cannot see how restricting full disclosure of commission payments is beneficial for consumers, and it directly opposes last year's Supreme Court ruling in Plevin v. Paragon.

We are encouraging our members to fully disclose all payments in their initial disclosure, however this mis-match with the information in the ESIS will likely cause confusion for consumers at the least.

### **Questions**

#### **Q1: Do you agree with our proposed changes to the Glossary of terms?**

No comment.

#### **Q2: Do you agree with the ombudsman service mirroring these proposed changes to the Glossary of terms for the Voluntary Jurisdiction (VJ)?**

No comment.

**Q3: Do you agree with our proposed changes to PERG?**

No comment.

**Q4: Do you agree with our proposed changes to the initial disclosure requirements?**

We are disappointed that the FCA have seen it necessary to reduce the disclosure requirements for lenders. During the MMR and its subsequent implementation, the concept of a level playing field for firms and the principle of a consistent consumer journey and protection lay at the heart of the new rules. Whilst we agree that there is a small element of adding bureaucracy to the process, we were of the opinion in the original consultations that this was appropriate and balanced. The consultation now removes these protections for a limited facet, which we consider to be detrimental to the wider market.

We continue to be supportive of the equal requirements for oral disclosure or equivalence where the communication is by another channel.

We do not consider that the additional guidance which purports to clarify when disclosure should be made is sufficiently precise to assist firms. It is still unclear whether “before the provision of advisory services” means before commencing discussion, prior to fact finding, or prior to making a product recommendation.

**Q5: Do you agree with our proposed change to the MCOB transitional provision?**

No comment.