Association of Mortgage Intermediaries' response to FCA Call for Inputs on competition in the mortgage sector

About

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. It is a non-confidential response as we consider that as a trade body any comments we make should be transparent and justifiable. We understand why some firms may wish to have confidentiality over commercially sensitive data or matters, but do not consider this extends to trade bodies who should be delivering "industry" views and evidence.

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 mortgage transactions are advised by intermediaries.

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

A mortgage whilst superficially simple is actually a complex product; it is a combination of amount, term, rate, criteria, loan-to-value (LTV), capital repayment or interest-only, fees (front and back end), portability etc. making any electronic comparison site useful but ultimately flawed. Part of an adviser's role is to guide consumers on these various elements to determine a product suitable for their needs.

Whilst mortgages have many features, the vast range of products matches the greatly differing and complex needs and circumstances of consumers. Because there is also often a choice of suitable products, prices are competitive. By delivering this wide range of products based on such variables as LTV, individual risk profile, employment characteristics or type of property, the rate can be varied according to risk meaning there is less cross-subsidisation. Advisers are essential in finding the most suitable product for consumers, who should not be expected to do this themselves. Therefore we cannot see a need to simplify the product itself, which would only marginalise a segment of the market as their needs would not be met.

We believe that the Mortgage Market Review (MMR) rightly recognised the need to establish, through advice, not what the customer thinks they want but what they genuinely need as being a core cornerstone of the future market. Many advisers will discuss with customers the impact of reducing the loan amount to achieve a lower LTV banding so potentially significantly reducing the interest rate applied. In execution-only transactions these valuable discussions cannot happen. It would also be very difficult for any automated advice system to effectively incorporate such dialogue and we cannot see it being able to accommodate any 'soft' facts or being able to identify other customer needs. Anything which dilutes the opportunity for consumers to benefit from intermediated advice risks moving us significantly backwards.

Intermediaries play a key role in a housing transaction in that they work for the customer and they will help them understand the process, often guiding the customer through wider areas of the transaction such as liaising with other professional parties. The fact that intermediaries will look at a wide range of products from a significant number of different lenders makes them essential in keeping the market competitive.

Key issues

From our perspective the financial crisis has created a move away from certain products and criteria so there are a group of customers, including older borrowers, who no longer have access to the market. We are concerned that consumers are being unfairly trapped as they are unable to access more suitable mortgage products due to lenders' interpretation of the FCA rules following implementation of the MMR. Our members are continuing to see borrowers being unnecessarily denied access to mortgage products or lower rates which should be allowed under the FCA's porting and transitional rules. This is in addition to the issue of borrowers who cannot access mortgage products specifically as a result of the application by lenders of their interpretation of the MMR affordability requirements, but "common sense" should not allow them to be trapped. One example is a borrower who may have had a change in circumstances but has not struggled with repayments and is being prevented from remortgaging where the level of borrowing is not increasing and they wish to move to a product with lower repayments.

Most lenders are now typically uninterested in correctly applying these provisions, which we believe is partly due to the lack of pressure from the FCA and also their belief that the Mortgage Credit Directive (MCD) will remove these next March. However MCD does not set out the specific affordability assessment that lenders must use. We would suggest a practical approach for this assessment, for example checking whether the last 12 months' mortgage payments have been paid on time and conducting a credit search. This would minimise the number of trapped borrowers.

Our member firms have included case studies demonstrating unfairly trapped borrowers in their responses. This lender behaviour has led to consumers not being able to "vote with their feet" and we believe this is a contributing factor to the lower than expected levels of remortgaging. The volume of these types of consumers will grow and become more apparent when interest rates eventually rise.

Conclusion

The UK currently has a very competitive residential mortgage market, which is well served by both lenders and intermediaries. There are however anti-competitive issues where segments of consumers should be able to access certain products but are being prevented from doing so as a result of some lenders' behaviour. We believe the FCA could do more to ensure that their rules are correctly and consistently applied.

Where advice is provided, the protections afforded by both the Financial Ombudsman Scheme and the Financial Services Compensation Scheme (FSCS) are tangible benefits. In an environment where we still have to see the full impacts of both MCD and the new Senior Persons regime, we consider that the market will continue to evolve to the benefit of the consumer without significant intervention.

We would stress the importance of the timing of any changes as a result of this review. For example, with the MCD bringing significant changes to the second charge mortgage market, we believe there will continue to be developments as the rules are embedded. We do not believe it would be prudent to look at this market until at least a year's time. This is because we think that by integrating second charge regulation into the first mortgage world we will see the two markets gradually coalesce. For example, some of the higher initial fees are likely to dissipate as products with early repayment charges can come to market under the new regime.

Specific questions

Q1: The main factors considered by consumers when choosing a mortgage product, how this varies across different types of borrowers and product type, and the elements of the mortgage decision that consumers find most difficult.

Consumers usually want the lowest monthly price without consideration of any other needs. However an adviser will know to balance any needs around medium term affordability and interest rate certainty, which will ultimately mean that a compromise will be established between the adviser and the consumer on what aspects are genuinely most important. Dialogue with an adviser will ensure understanding on both sides to achieve a good result.

The move from the pre-MMR position of many consumers merely selecting the cheapest product via a non-advised offering to receiving advice based on a range of criteria has meant that the mortgage fact-find and advice process has migrated to intermediaries as they have access to a better range of product solutions which are more likely to fit the broad range of consumer needs.

We are increasingly seeing consumers arrive with a product in mind, having researched the market via price comparison websites (PCWs). It is the adviser role to test the assumptions in their research and to advise on the feasibility of attaining that product. In addition there may be other more appropriate lenders. This is particularly the case if the consumer has complex income, recently changed job, payment history issues or the property does not value as anticipated.

Mortgage products have fee versus interest rate trade-offs, different options on over-payment and rules on porting amongst others. For some consumers these are significant and therefore good dialogue with an adviser that leads to an advised sale is essential. Whilst price is important, it cannot be at the expense of a product that is unduly restrictive given the long-term nature of the contract. Also in discussions it might be that one element of preference over-rides all others, such as speed to offer to allow exchange of contracts, therefore an adviser who can establish the relevant personal facts especially those outside the routine content of any online decision tools becomes essential.

Q2: The extent to which consumers choose mortgages that are less suitable than other products available to them, and whether certain mistakes are more prevalent amongst some consumer groups.

Consumers choosing the 'cheapest' product can mean an unsuitable or less suitable product is chosen. As an example, because they have not considered factors such as whether they need security in interest rate rises and for how long, the likelihood of moving house, or the availability of flexible mortgages, this could result in:

- choosing a short term fixed rate perhaps with a high fee because it looks like the cheapest monthly repayment without consideration of remortgaging costs after a short period of time, or
- choosing a long term fixed rate because they want certainty in monthly payments but being unaware of the impact of early repayment charges when they are likely to move house before the period ends, or
- not benefiting from an offset mortgage where they have substantial savings or a volatile cash flow.

Terminology across products needs to be made consistent as this also impacts on consumers' abilities to understand different features. The recent CML/Which? initiative was a start, but only touches the charges element and lacks precision on issues such as valuation fees. We consider that more could be done to standardise terms, which may become easier once all lenders migrate to the Mortgage Illustration (ESIS).

We remain concerned that some lenders have adopted an online execution-only approach for product transfer business, particularly selecting against customers which they view as 'higher risk'. Whilst execution only may be appropriate for some customers, there is enough evidence in the advised intermediary market of the need to change customer perception to another product and that a significant proportion may not be achieving the optimum result. There are other disadvantages of the execution-only route, for example a lender will not often update the property valuation so this impacts the size of the loan offered, the LTV and the cost etc. In addition, some lenders have a very limited product set and we remain concerned that there are not enough referrals out of lenders where there is a product gap related to the personal circumstances of the borrower. We have covered the issues on affordability and only offering terms to those with a propensity to mortgage away elsewhere in this response.

Q3: The different providers of information and advice typically considered by (different types of) consumers, and how they are used.

Some consumers will look at PCWs before coming to an adviser. PCWs give only limited information to the user whereas intermediaries will take all factors into consideration when recommending a suitable product including but not limited to criteria, service levels, revert to rate, fees and rate vs loan size. This can often lead to these consumers approaching advisers with a specific product in mind without consideration of other needs. It is important to note that due to the nature of their commercial arrangements, PCWs are focused on keeping consumers engaged (hence the limited questions asked and therefore the restriction on results that are displayed) and encouraging consumers to flow directly through to their commercial partners' websites. Examples of their limitations include not being able to identify or display the timing of when fees are taken, whether they can be added to the loan, the length of the offer, or when a particular fixed rate starts – one month from offer or from drawdown. We believe that PCWs can be useful for some types of consumers to give an indication of available products in the market (although this can be misleading for other types of consumers who are not eligible for these products), however we are very concerned about consumers being able, and encouraged, to subsequently click straight into the application process on an execution only basis. As this is based on a very limited fact find the suitability of the product selected by the consumer is questionable.

For financial products such as mortgages, most consumers still want the option to be able to speak to someone. One member firm is conducting research and has found that 59% of consumers prefer to interact face-to-face with a mortgage adviser. This is a very high number in financial services. Another member firm has carried out a trial where consumers had the option to provide their information and needs through online forms, and it found that 87% of the consumers preferred to speak to an adviser over the telephone than complete online.

We believe automated advice would be detrimental for a significant proportion of consumers in the mortgage market due to the specialist knowledge that intermediaries have for certain markets such as self build and new build, and more generally for non-straightforward applications. This can include non-standard properties, income or tenure.

It is also likely to be difficult for any automated system to be able to accommodate 'soft facts' about a consumer or identify other needs, such as debt advice, protection, consideration of wider tax implications (e.g. buy-to-let) and the appropriateness of a second charge mortgage or further advance.

Q4: Whether existing information and advice channels cater for the needs of different types of consumers. If not, which types of consumers face particular challenges.

We strongly believe that the requirement for mortgage transactions to be advised is a good outcome for consumers. Whilst we agree that developing digital solutions in the financial services industry is seen as the way forward, and this is how some consumers expect to be able to interact with firms, we are concerned about lenders' promotion of online execution-only channels for consumers. Where no advice is given there is a significant chance that consumers will not have the most suitable product, and in some cases the product could be wholly inappropriate. We would also seriously question certain 'execution-only' models with a decision tree design which guides consumers through a series of questions before presenting the available product(s). We strongly believe that this is not execution-only and this process represents a limited form of advice which could lead to consumer detriment. Consumers should retain their full rights and protections when going through such routes.

We would not want to see the work carried out by the FCA leading up to and during implementation of MMR to be unravelled, which introduced the value of advice and the need for consumers to obtain it. As demonstrated in the FCA's thematic review of advice and distribution, consumers often think they know what product they want whereas advisers will fully assess their needs and circumstances before considering a suitable product, and will challenge any consumer preconceptions. We would like to note that the majority of advisers know to do this and do not order-take, despite the thematic review's findings, which we would highlight was a risk-weighted sample of firms so comparisons against the whole advisory market cannot be safely drawn.

Intermediaries make the mortgage market competitive; if the majority of, or all, consumers obtain mortgage products (either advised or non advised) directly from lenders, there is a higher chance that lenders will be less competitive. Indeed the former Deputy Chairman of Santander Group in evidence to the Treasury Select Committee in 2010 set out that the UK model with a high intermediary focus ensured that lenders delivered more competitive products than was the case in other jurisdictions.

Whilst some view holistic advice as better serving consumers, we believe in practice this would be detrimental for a number of reasons. Firstly, the segmentation of the FCA rulebooks has driven the different types of advisers we have today. Although the requirement for advisers to be appropriately qualified and to have a high level of competence can lead to good standards of advice, in practice this means that there are few advisers who will be qualified and competent in more than one, or even two, markets. This is not just due to capacity to expand scope but also the ability to be able to do so successfully. In the legal profession, one would not expect a lawyer to be proficient in all areas of law but to specialise in certain fields.

Consumer attitude to mortgages and advice demonstrates another barrier to holistic advice. Most of our members advise on mortgages and protection, yet take up rates of protection are low (typically between 10% and 20%). When consumers seek mortgage advice, the primary trigger is the housing transaction, and the need for it to be completed within a certain timescale. Most see advice as a by-product. This is of course very different to the mind-set of consumers seeking investment advice. Our members find that the overwhelming majority of consumers are not expecting and often unwilling to discuss any other needs they may have, even those related to the commitment to pay their mortgage. One firm has conducted consumer research and has found that 80% of individuals don't want to be advised on any other products except for the mortgage. Whilst most consumers do not want to discuss or purchase protection, a significant proportion do have a need for cover.

We therefore believe that the most suitable method of delivering advice, for both firms and for consumers, is a strengthened triage system where advisers are able to identify consumer needs and subsequently refer them to specialists where necessary.

Consumers in the Right to Buy, Shared Ownership and Help to Buy sub-sets are in need of specialist advice. The nature of this market segment is that they are better served by those who look across a wider set of lenders.

Q5: Re-mortgaging patterns, in particular:

a. The main prompts for re-mortgaging

The main reasons consumers remortgage are when a preferable rate comes to an end and to borrow more money for home improvements. Overall less consumers are remortgaging because of debt consolidation or taking out a second charge mortgage to consolidate debt compared to the levels pre-MMR.

b. The main factors that consumers consider in deciding whether and when to re-mortgage and whether to do so with their current lender

Consumers will look at a lender's rate and the ease to effect a product transfer without understanding that their lender may not offer the most or even a suitable product and that they may not benefit from the protection from an advised process.

c. The nature and relevance of different barriers to re-mortgaging. The extent to which the (perceived or real) costs of switching prevent consumers from accessing better deals.

The real costs of remortgaging can be high when taking into account valuation, legal and lender fees (not just arrangement or booking fees but also early repayment charges). However this is not the only barrier to consumers switching; we believe that consumers are trapped even when they want to switch due to lenders' selective implementation of the FCA's transitional rules. There is significant evidence of difficulty in placing some deals. Small lenders routinely report broker enquiry levels running in excess of six cases for every one submitted. Some broker firms talk of having "mini discussions" with more than four times the number of customers who make lending applications. We remain concerned that there is a large group of borrowers who might see themselves as frozen out of changing their lending contract. In addition the recent FCA thematic work outlined the lengthy advice processes of some lenders which might discourage some customers from going through more than one initial process.

We are concerned that some products have unfair early repayment charges (ERCs) as they are not reflective of lenders' incurred costs. We raised this during discussions on MCD as the Directive stipulates that "such compensation should be a fair and objectively justified compensation for potential costs directly linked to early repayment of the credit in accordance with the national rules on compensation. The compensation should not exceed the financial loss of the creditor." The FCA subsequently maintained its rule that ERCs should be "a reasonable pre-estimate of the costs as a result of the customer repaying the amount due" and that lenders can choose how they calculate this. Whilst there appears to be no change in the FCA rules, we do not believe that the structures of certain products comply with these or with the EU legislation. We would therefore like to see the FCA enforce these rules more effectively.

An example of an unfair ERC would be a flat rate throughout a fixed rate period. For example some lenders still have an ERC of 5% throughout the whole term of a 5 year fixed rate. Others have a 5/4/3/2/1% structure, which is much fairer, and a few lenders changed from a flat rate to a reducing rate following publication of the MCD. It is hard to see how it can be fair, or reflect a lender's financial loss, for there to be an ERC of 5% on one day and nil the next.

Q6: The relevance of different behavioural biases as a barrier to the effective assessment of information, and the extent to which advice or additional information mitigate these.

It is difficult for consumers to effectively assess all information when obtaining a mortgage on an execution-only basis, and also potentially when receiving advice directly from a lender who may not choose to draw attention to certain product restrictions. However intermediaries will not only emphasise certain terms and conditions for consumers but they will have taken these into account when recommending the most suitable product. Consumers will naturally over-rely on the positive elements of a transaction and ignore any adverse data.

Q7: The extent to which some types of consumers may be unable to access more appropriate (types of) mortgage products and may be unduly trapped.

Our firms continue to experience borrowers being prevented from accessing more suitable products in the following circumstances:

- The lender will not allow a borrower who is moving house to port their mortgage even though their circumstances have not changed. The borrower's current mortgage may likely be a variable rate tracker product which is set at 1% above the Bank of England Base Rate, and is therefore forced to take out a new product at today's higher rates and/or must pay an early repayment charge on the existing mortgage as they are forced to redeem the product.
- The lender will not allow a borrower who is moving house to port their mortgage because they are no longer in the market or the asset has securitised.
- Borrowers with an existing interest-only mortgage and sensible repayment plan are forced to switch all or part of their mortgage to repayment.
- Borrowers over a certain age are unable to get a mortgage as they exceed a lender's maximum age or they have retired, despite being able to afford it
- The creation of mortgage prisoners on the basis of affordability where a borrower does not have any arrears yet they can't remortgage on a pound-for-pound basis.
- Lenders of a first charge mortgage refusing to give consent to a second charge mortgage without any good reason, resulting in either the consumer being forced to take a further advance with the existing lender or where this has already been declined, giving them no option to address their needs.
- We are aware of some lenders who segment their existing mortgage account base and apply credit score data to derive a 'propensity to move' score, based on those with a good credit rating versus those who do not. Only the most likely to move are offered the best rates to stay, whilst those with the worst scores are not offered any alternative and left to default to the lender's standard variable rate. This will be much higher than those with a high propensity score.

It is often vulnerable consumers who are unduly trapped.

Q8: Lenders' business strategies, from sourcing funding to offering of mortgages. In particular:

a. **The extent to which firms reflect consumer behaviours and biases in the design of their products and deals, and whether this has increased product complexity over time**

The range of 2 to 5 year fixed rate mortgages is a response to consumer demand and the use of ERCs to tie in consumers matches the risk of flight if market rates shift significantly. These ERCs may not always be a true reflection of the cost of breaking the contract, more a barrier to exit. Whilst this is complex the intermediary community is capable of dealing with this.

We are concerned that some lenders in their desire to retain existing customers may be sending limited offers to consumers on product transfers not from their whole product range and others are introducing non-advised decision tree automated solutions, which should be seen as advised and offer the consumer full protection. We are concerned that an advised introduced mortgage can be varied by this process without the consumer understanding fully the protections they may be losing.

b. The degree to which firms' ability to compete in all or parts of the mortgage sector relies on their portfolio of mortgage products and customers (including back book of customers)

An intermediated market rather than direct-only allows firms to come to market with niche offerings which are specialist and deliver these through discrete distribution groups which limits demand so ensuring that they can match supply and servicing ability within reasonable parameters.

c. The extent to which lenders' ability to compete in all or parts of the mortgage sector relies on their presence in other financial services activities, including in retail lending and/or banking

Whether a lender has a mutual funding model, is deposit based or is wholesale funded, it is more likely to drive the risk they can tolerate and the price they need to post to be profitable. The biggest margin contributor is that some lenders use an individual risk capital model which usually lowers their capital allocation, when compared to those who have to embrace the standard model requiring greater capital for what can be the same product. This creates a competitive disadvantage for smaller lenders for no obvious reason.

Q9: Lenders' monitoring and reactions to changes in offers by competitors, and whether there is evidence of patterns in pricing movements.

We believe that the prevalence of trapped borrowers is as a result of the majority of lenders deciding to implement the transitional rules in a certain way, which we understand was not the FCA's intention. As a result there is a distinct lack of competition in this area as well as a breach of the FCA's principle to treat customers fairly.

In order to be competitive in the market place, be listed in best buy tables, maintain service standards and to secure the share of lending to meet their business targets, lenders will necessarily react to the prices being charged by their competitors. In this market, rates will track the funding costs and move positively from the perspective of the consumer in reducing to achieve desired volume targets. This is not a utility product.

Q10: The range and nature of relationships between different players in the mortgage supply chain or related activities, and within that

a. the scope for potential conflicts of interest and whether and how these are mitigated

Following roundtable discussions with industry and consumer groups we need to reiterate there is no conflict of interest between intermediaries and lenders resulting from remuneration. The FCA has already investigated procuration fees and found there was no bias in advisers' recommendations. We believe that any comparisons with the investment sector are not realistic – the procuration fees paid by lenders are significantly less than the commission rates which existed in the investment market (yet the average loan and investment amounts are the same) and there is no difference in the mortgage rate if a consumer goes direct to a lender instead of through an intermediary.

Most intermediaries do not rely solely on procuration fees, instead charging a fee or a hybrid model where the consumer can choose to offset the procuration fee against the fixed fee. Intermediaries are clear and transparent about their remuneration, which is disclosed upfront and the amount set out in the Key Facts Illustration. MCD will introduce further disclosures from March 2016 which enhance this transparency.

b. The impact of relationships with others outside the mortgage supply chain on the ability of brokers and lenders to compete

We believe there is a minimal impact on the ability of brokers and lenders to compete, however in the area of new build and estate agency there can be demands and pressure on intermediaries, especially if they derive a substantial proportion of their business from a developer, to select certain mortgage lenders, which intermediaries have to carefully manage. The pressure to exchange contracts in the new build market within four weeks of offer means that there is a tendency to use lenders who have proved they can deliver this rather than taking a risk on other lenders which may be equally, or more, capable of doing so.

c. Whether lenders, including new entrants, have found it difficult to distribute through certain brokers/distributors, or whether brokers have not been able to supply products from certain lenders

As discussed in the roundtables, if there are any difficulties to supply products from certain lenders this is more likely to be encountered by smaller intermediaries, as lenders balance the volume of business received from these firms against the due diligence they need to carry out. There is a risk that if regulators apply more pressure on lenders to ensure they assess how well their products are distributed this will confuse the regulatory contract. The Senior Persons regime should make it clear that lenders produce suitable products that perform as described. Intermediary firms understand these products and advise on them appropriately. The respective firms and their principals are responsible for their own parts in that. We should avoid contagion and keep responsibility clearly apportioned. It is often necessary to limit delivery to ensure that service standards and tranche management can be satisfactorily delivered.

Q11: The business models of brokers, price comparison websites and mortgage sourcing systems, and how they interact with others in the mortgage sector and might impact their ability to compete.

Sourcing systems are a research tool and complement intermediaries' all-round knowledge of lenders and products in the market. Intermediaries know that there are occasional issues with data accuracy within sourcing systems although this is strongly managed by both lenders and the sourcing engines. There are however not the same safeguards in PCWs, as the commercial arrangements are very different.

As sourcing systems have developed, the range of fields that are available have grown, but the binary nature of many of them means that what many lenders will do at the margins of their policy cannot be reflected in these systems. There are other issues around service, timing of fee application and offer timing and length that does not easily fit in initial searches.

It is these and other factors that might mean an adviser might not select from the top set of returns in their search. Understandably some firms and networks are asking their advisers to justify when they wish to step outside the upper returns. Where the search has been done accurately, it is right that such a justification is provided to protect the customer, adviser and firm. Advisers never see the search result in isolation as even then it will be sorted often on initial cost, or cost over a specific term, that may need to be looked at more deeply in relation to fees and term to ensure the right answer is concluded.

It is the expert knowledge of the adviser alongside the sourcing system that ensures consumers get the right product. Whilst sourcing systems are excellent tools they are only part of the advisory armoury as advisers will challenge the assumptions made by consumers to ensure they get the right product. Self-service using web based systems will only make this issue worse; the use of technology to facilitate product transfers without advice may not be in the best interests of consumers, as they may mislead.

Q12: The impact of regulation on barriers to entry and expansion, where possible highlighting specific pieces of regulation and/or the types of businesses and products that are affected.

The main barrier to entry for intermediaries is the level of regulatory fees. As well as mortgage intermediaries seeing an 8.5% increase to their FCA fees this last year, the introduction of consumer buy-to-let fees, which will unjustly sit outside the minimum fee structure, will add a further £350 per year. This has a great impact on smaller firms who, together with an 8.4% increase to the minimum fee, will see an increase of almost 40% (see appendix 2 of our previous consultation response). At this rate smaller firms with low income, when also faced with FSCS levies, will be priced out of the financial services industry by the over-burdensome impact of FCA funding.

Over the last decade, since the FCA has been responsible for regulating the mortgage market, the cost of regulation has increased dramatically; importantly it has been significantly in excess of inflation and at a rate where it is impacting firms' budgets. As an example, one member firm has experienced an increase of FCA fees of over ten-fold in the last 10 years whereas its turnover has only doubled. Firms have not seen an increase in regulation during this period, perhaps with the exception of the MMR, so we cannot reconcile the benefit of these fees. With regulatory fees making up a high proportion of firms' costs, firms have struggled to innovate. Many broker firms would like to increase their IT budgets and expand their staffing, but cannot given the limitations they face, so they must prioritise their resources accordingly. These higher fees which firms are struggling to pay will ultimately be borne by the consumer.

Considering the Senior Persons regime will be extended to intermediaries and the change in the FCA's supervisory structure, firms are becoming more responsible for their own supervision so we do not see how an increase in fees can continue. In addition, we believe that the cost of regulation should be more focused on products than on its distribution as ultimately the responsibility for the product, including its costs and target market, lies with the manufacturer, as emphasised by the European Banking Authority guidelines on product oversight and governance.

This year the FSCS levy has been the most burdensome for member firms whose invoices have more than doubled since last year (and they will be required to pay this higher amount next year) due to several mis-selling scandals within the pensions industry. Whilst we support the safety net that the FSCS provides for consumers, we strongly believe that the calculation of the FSCS levy needs to change as its original purpose, as implied in the legislation, was to categorise firms who carry out similar business. As the structure has changed since outset, this is no longer the case as there is very little crossover between mortgage intermediaries and pension advisers.

Q13: The main elements of the regulatory framework and wider government policy impacting on firms' ability to compete and/or innovate in the mortgage sector.

The rules that limit product bundling or "contingent rates" may not always be working in consumers' best interests. A fully protected mortgage should allow a lower rate to be charged but the rules on how this would be shown in sales documentation or accessed in the open market makes it less likely.

Q14: Experiences of current or recent plans for entry, both successful and unsuccessful, whether into the regulated or non-regulated mortgage sub-sectors, and the main factors impacting on the success of entry plans.

Partially because of the number of new lenders wishing to enter the market there is a lack of capacity in the mortgage servicing sector and this is delaying some launches.

Q16: The extent to which economies of scale and scope for different activities (e.g. lending, advice, intermediation, provision of information) have made entry or expansion more difficult, or may have prevented it.

We believe the main barrier to expansion of activities is regulation and cost, which we describe further under Q12.

Q17: For lenders, brokers and price comparison websites, the main challenges in gaining access to consumers, mortgage products, and/or information about mortgage products (in particular those challenges not related to lenders offering direct-only deals).

As previously mentioned, we are concerned that some lenders are pursuing avenues where consumers do not receive advice. Another area where this is emerging is in the remortgage market where lenders assess 'good risk' borrowers approaching the end of their fixed period and will offer a product to transfer to. Whilst this may appear to be competitive, some lenders are contacting these borrowers, say four months before the end of the period, but they will not release information on products to intermediaries until three months, with the hope that the consumer will take up their offer without receiving advice from an intermediary who will look at all of the market. This can therefore lead to an unsuitable and / or poor value product being taken by the borrower. In addition, we are concerned that specific borrowers are being targeted with these 'offers' leaving others to become trapped.

Another example of how the lack of advice can lead to an unsuitable product is the inability to recognise any flexibility in the consumer's circumstances, such as a consumer who could afford to increase their equity by using savings (even by a small amount) which would result in being eligible for a product with a lower LTV, lower interest rate and overall lower cost.

Q18: The extent, nature and relevance of different barriers to product and process innovation.

We believe the regulation should be amended to allow more flexibility for lending into later life and the regulator should exert more pressure on lenders to accommodate this, as many older borrowers are trapped from accessing mortgage products.

Another area of regulation which contributes to mortgage prisoners is certain aspects of the affordability assessment, such as the requirement for lenders to assess affordability over the life of the loan. We don't believe the assessment should be focused on certainty for lenders, which in this scenario cannot be given, but instead could be amended so lenders assessed the probability of the income being sustainable over the life of the loan, which seems a more practical approach. The all-encompassing affordability assessment has a great impact on the equity release market, for which we believe it should be adjusted. For example if there are two applicants then lenders are required to assess affordability on the basis that the individual with the highest earnings would die first as their loss of income poses the higher risk, whereas for equity release it would be more appropriate for this to apply to the person statistically more likely to die first, based on mortality.

We support fully the five year stressed assessment of affordability. The rule requiring affordability to be assessed for the term of the loan is limiting lenders' abilities to approve some loans and more widely limiting their desire to introduce new products. A general guidance requirement to assess the feasibility of the stated income would be preferable.

Take up levels of protection are also very low, which is concerning when there are consumers who have a clear need, and we believe there is scope for regulation to allow easier access for consumers through advice. The cost of advising and need to require a full fact find (even though a lot of information will have been gathered from the mortgage fact find) is disproportionate to the product recommended.

We are concerned that consumers are unable to access more suitable types of products in the equity release market as a result of MMR. The way that the affordability assessment is applied means that flexibility in the payment of products has all but been lost. Some consumers wish to make monthly payments at the outset but would like to have the flexibility to stop these in the event of a sudden reduction in income such as on death of a partner, and subsequently revert to rolling up the interest into the loan. However because a full affordability assessment is conducted, some consumers will be assessed as not being able to afford these payments and are therefore being forced into rolling up the interest, which considerably increases the cost of borrowing. We believe the regulation should allow for a distinction in contractual payments, so that a flexible feature such as making interest or capital repayments during the life of the loan will be exempt from this affordability assessment.

Q19: The extent to which specific consumer needs might currently be unaddressed and the reasons for this.

Apart from the issues we have already raised in other parts to this response, we have nothing further to add.