Association of Mortgage Intermediaries

Association of Mortgage Intermediaries' Response to FCA's Consultation Paper – CP15/03 Implementing the Mortgage Credit Directive Order 2015

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

While we generally agree with the FCA's approach to implementing the Mortgage Credit Directive Order, we are very concerned that this consultation asks a limited number of questions and fails to adequately address the proposals to impose additional fees onto firms which are already authorised.

We understand introducing an initial registration fee for consumer buy-to-let activity and we have no issues with the anticipated levels. However we strongly believe that the periodic fee for already authorised firms should be included in the existing minimum fee structure.

Consumer buy-to-let mortgages not only make up a small percentage of the market, but also a very small proportion of an intermediary's business. Additional annual fees of £250 rising to £350 (including the ombudsman levy) will be disproportionate to the income received from advising on consumer buy-to-let mortgages for many small and medium sized intermediaries. As such, we believe that the current structure is not in line with the FCA's statutory principle that "a burden or restriction which is imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction" (FSMA 2000 c. 8 s. 2(3)(c)).

We believe the proposed periodic fees are likely to lead to these firms deciding to stop advising on these mortgages, which will ultimately narrow consumers' choice. We believe the FCA should amend the framework so that a firm's mortgage minimum fee would cover their consumer buy-to-let permission, with the turnover on consumer buy-to-let being included in a firm's reportable regulated mortgage activity.

If these proposals continue this will mean that for small firms they will see their "minimum fee" rise by 35%. This cannot be acceptable.

In addition we see from footnote 4 on page 6 that it is anticipated that commercial buy-to-let broking will fall totally outside the FCA regulatory remit and would welcome explicit confirmation of this.

Responses to Questions

Q1: Do you agree with our proposals for registering CBTL firms?

We agree that the registration process for firms who already have Part 4A or interim permissions should be simple. We believe that only minimal information from these firms should be needed in order to register and we agree with the two requirements that the FCA has proposed in 2.5. Our comments are limited however as the consultation lacks further detail on the registration process. We understand a sample application form will be published in June 2015 and we would welcome the opportunity to feed back on this.

Q2: Do you agree with our proposals for collecting aggregate data from CBTL lenders?

We agree with these proposals.

Q3: Do you agree with our proposals for complaints and redress in relation to CBTL firms?

We agree with these proposals.

Q4: Do you agree with proposed changes to our Supervision, Enforcement Guidance, Decision Procedures and Penalties and Perimeter Guidance manuals?

Yes.

Q5: Do you have any comments on our draft rules in order to implement the CBTL regime set out in legislation?

No.

Q6: Do you have any comments on our cost benefit analysis?

We think the FCA has overestimated how many already authorised lenders will register to engage in consumer buy-to-let activity. The analysis refers to MLAR data that shows 100 authorised lenders sell buy-to-let mortgages, half of which sold less than 10 in the second quarter of last year. Due to the small proportion of some lenders' businesses we believe the maximum number of lenders that will register is nearer to 50. However we think it is more likely that only lenders in the mainstream buy-to-let mortgage market will register, of which there are around 30.

Based on the anticipated fee structure we do not believe that anywhere near 800 broker firms will apply for consumer buy-to-let authorisation. This is likely to be a "niche" or specialist business which most smaller firms would eschew if there are the annual costs predicted. Larger firms and networks will participate to give market scale, but this will be a "limited" offering.