Association of Mortgage Intermediaries

Association of Mortgage Intermediaries' response to HM Treasury and FCA Financial Advice Market Review call for input

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

We agree with the statement made in the call for inputs that there is no advice gap in the mortgage market, which we believe is working well for consumers.

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 available for all 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 limited advice which could lead to consumer detriment. Consumers should retain their full rights and protections when going through such routes.

Key issues

We would not want to see the work carried out by the FCA leading up to and during implementation of the Mortgage Market Review (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 mortgage 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.

Intermediaries also 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, sectors. 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.

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.

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% on residential mortgage transactions). 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.

Conclusion

We 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 refer them to specialists where necessary.

We don't believe there are any advice gaps in the mortgage or protection sectors, but there is a need to encourage consumers to consider protection. We appreciate that there are gaps in other parts of the advice market. We would ask that any remedies to reduce these are carefully considered so that any changes to Perimeter Guidance, what constitutes advice, safe harbours or "approved products" does not have collateral impact on a mortgage advice market which, on the whole, appears to be working well for consumers.

AMI members are against the need for introducing a long-stop and are happy that the principles of insuring legacy liability or leaving capital behind are already established in the market. Advisers and firms can already avail themselves of these solutions. The Financial Services Compensation Scheme (FSCS) levy structure however is in urgent need of reform as we can see little justification for protection advisers paying for the use of unauthorised investments in the pensions market. AMI does not consider that the issues raised by others precludes progress on consulting on the new model for FSCS funding.

Specific questions

Q1: Do people with protected characteristics under the Equalities Act 2010, or any consumers in vulnerable circumstances, have particular needs for financial advice or difficulty finding and obtaining that advice?

No comment.

Q2: Do you have any thoughts on how different forms of financial advice could be categorised and described?

Financial advice could be described as relating to either the creation of debt (e.g. mortgages), the protection of debt (e.g. life assurance), creating wealth (e.g. investments) or drawing down wealth (e.g. at retirement). Historically saving meant the accumulation of a sum which might be available for investment. Investment was the application of such an accrued sum for a longer term for either income or growth. The terms should not be inter-changed as many do today.

Q3: What comments do you have on consumer demand for professional financial advice?

The majority of consumers still want to speak to someone regarding what could be argued as the most important transactions of their lives, and by doing so they expect advice rather than guidance. These must be on their terms at a time that suits them. Most however find the agreement and payment of significant fees to be a barrier to embracing discussions. Procuration fees continue to work well in the mortgage market and we consider it must return in other markets although such payments from the product should perhaps be across a longer term, rather than high initial amounts. Payment should stop if the product lapses, with no liability on the consumer to make good any implied balance.

Q4: Do you have any comments or evidence on the demand for advice from sources other than professional financial advisers?

Some consumers will look at price comparison websites (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. PCWs can often lead to 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.

When consumers arrive with a product in mind, having researched the market via PCWs, it is the adviser role to test the assumptions in their research and 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 especially the relevant personal facts especially those outside the routine content of any online decision tools is essential. The importance of a fact may only exist for a limited period of time and does not always follow through to later decisions.

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 cashflow.

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 this 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, 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.

Self-service using web based systems will only make this issue worse because the use of technology to facilitate product transfers without advice may not be in the best interests of consumers, as they may mislead. In some cases by transacting on this basis they may lose protections from the Financial Ombudsman Scheme (FOS) or FSCS without realising.

Q5: Do you have any comments or evidence on the financial needs for which consumers may seek advice?

When consumers seek mortgage advice they do so with the housing transaction in mind and the need for this to be completed within a certain timescale. They are very often uninterested in any other needs they may have, even those that closely relate to the transaction such as protection. Whilst most consumers do not want to discuss or purchase protection, a significant proportion do have a need for cover.

Q6: Is the FCA Consumer Spotlight segmentation model useful for exploring consumers' advice needs?

No comment.

Q7: Do you have any observations on the segments and whether any should be the subject of particular focus in the Review?

No comment.

Q8: Do you have any comments or evidence on the impact that consumer wealth and income has on demand for advice?

No comment.

Q9: Do you have any comments or evidence on why consumers do not seek advice?

It is important to note that the whole financial advice market is not the same; this is not a significant issue in the mortgage sector, where the MMR has led to most transactions being on an advised basis. There are exceptions where some lenders' advice processes are particularly lengthy, leading to consumers finding it difficult to shop around between lenders themselves. Four hour interviews have been reported based on what we consider to be over-onerous interpretations of the new rules and poor technology that are linear rather than intelligent and adaptive.

However in the protection sector, we believe one reason that contributes to the low levels of take up of individual cover is the regulatory process. 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 risks involved in the product recommended. We rarely see complaints or individuals having too much cover, but do see situations where products do not cover core risks or have exclusions that the consumer was unaware of. Advice is core and we remain concerned that a number of FOS decisions where products may have not been entirely suitable have led to compensation that makes the sector wary of taking responsibility and selling from a wide range of manufacturers.

We are also concerned in this sector that PCWs supply good information but the cheapest will come with significant excesses or exclusions which may not be as transparent as we would like.

Any move to digitise the market should be on a level playing field. At this time lenders do not normally accept execution-only business from intermediaries but if they develop their own execution-only models, they shouldn't preclude brokers from this service.

Q10: Do you have any information about the supply of financial advice that we should take into account in our review?

No comment.

Q11: Do you have any comments or evidence about the recent shift away from sales based on professional advice, and the reasons for this shift?

No comment.

Q12: Do you have any comments or evidence about the role of new and emerging technology in delivering advice?

We are concerned about the concept of automated advice on the basis that it would be very difficult to accommodate all consumers' different needs and circumstances and be able to recommend the most suitable mortgage product. Currently intermediaries are likely to use sourcing systems to aid their recommendation. These systems are a research tool and complement intermediaries' all-round knowledge of lenders and products in the market. However intermediaries know that there are occasional issues with data accuracy although this is strongly managed by both lenders and the sourcing systems. 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. We struggle to see how automated advice will be able to do this effectively.

There are clear segments in the mortgage advice process which are not clearly set out in the conduct rules, but were raised in the recent thematic review as needing to be set out to the consumer so that they are aware of where that are in the process. These tend to be broadly set out as:

- Information-only and general enquiry and discussion
- Fact-find
- Mortgage application
- Underwriting
- Administration and completion
- Post-completion administration

These components can be undertaken by the same or different persons or firms. Accordingly, clarity is required in what is a complex product process.

Q13: Do you have any comments on how we look at the economics of supplying advice?

Whilst intermediaries will have a clear and transparent remuneration structure, lenders will price the cost of providing advice into their products and we don't believe that this is calculated accurately. As previously mentioned, we are concerned that as a result, some lenders are pursuing avenues where consumers do not receive advice. 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, or revert to costs or features. 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.

As well as looking at online execution-only channels for all consumers, 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, 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.

Q14: Do you have any comments on the different ways that firms do or could cover the cost of giving advice (through revenue generation or other means)? Do you have any evidence on the nature and levels of costs and revenues associated with different advice models?

We strongly believe that procuration fees should remain as a remuneration option within the mortgage market. 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. Even for those that do not charge any fee, this is an equally welcomed option for consumers who do not want to pay a fee for advice. Intermediaries are clear and transparent about their remuneration, which is disclosed upfront and the amount set out in the Key Facts Illustration. The Mortgage Credit Directive will introduce further disclosures from March 2016 which enhance this transparency.

Q15: Which consumer segments are economic to serve given the cost of supplying advice?

Mortgage intermediaries will serve all consumer segments regardless of loan size; it is very unlikely that a consumer will not be able to seek mortgage advice from an intermediary. Non-straightforward applications will in fact count for a higher proportion of consumers advised by intermediaries than those advised by lenders due to the limitation of meeting one lender's criteria. We believe there is therefore no advice gap in the core mortgage market. However consumer segments including Shared Ownership and Right to Buy can be at a higher cost due to the higher risk taken on by the adviser.

There is also an overall concern from firms about taking on advice risk, specifically in relation to certain FOS decisions regarding retrospective regulation. It is not reasonable for current regulatory standards to be applied to historic cases where different regulation was in force, or where the industry as a whole, including the regulator at the time, believed that the actions they were taking were complete, responsible and appropriate.

Q16: Do you have any comments on the barriers faced by firms providing advice?

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 the 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 because there is very little crossover between mortgage intermediaries and pension advisers.

Q17: What do you understand to be an advice gap?

Following the implementation of the MMR, the majority of consumers now receive advice and approximately 70% of mortgage transactions are advised by intermediaries. We therefore believe there is not an advice gap in the mortgage sector. Depending on the choices made by firms around scope from 21 March 2016, there could be potential for a gap in relation to consumers for whom a second charge mortgage may be more appropriate. However whether this will exist or to what extent will not be known until at least a year's time. We therefore do not believe it would be prudent to look at this market whilst the Mortgage Credit Directive (MCD) changes are still being embedded and the first and second charge markets continue to develop.

As previously mentioned, we believe regulatory barriers have led to low consumer engagement in the individual protection sector. Whilst consumers do not often seek protection advice, intermediaries will have assessed their needs and circumstances as part of the mortgage advice process and raise the need to consider protecting their mortgage liability. However in the majority of cases, after having gone through the mortgage advice process consumers are unwilling to go through another long process with a full fact find for a product they didn't ask for in the first place. We therefore believe improvements could be made in this area to encourage engagement.

Intermediaries will give protection advice to any consumer, like mortgages, rather than setting a threshold at which they decide to accept business, so in this respect there is not a gap in protection advice.

Q18: To what extent does a lack of demand for advice reflect an advice gap?

No comment.

Q19: Where do you consider there to be advice gaps?

We don't believe there are any advice gaps in the mortgage or protection sectors, but there is a need to encourage consumers to consider protection.

We do however believe there is a product gap, for example for certain older borrowers. Consumers can access advice easily and intermediaries are not restricted in who they will advise, however for some segments there are not suitable products available, which we discuss further under Q24.

Q20: Do you have any evidence to support the existence of these gaps?

No comment.

Q21: Which advice gaps are most important for the Review to address?

We believe that there are advice gaps in the investment and pension sector due to the unwillingness of consumers to pay for advice which can be acute when the investment amount is small. We agree the review should principally focus on these areas.

Q22: Do you agree we should focus our initial work on advice in relation to investing, saving into a pension and taking an income in retirement?

Yes.

Q23: Do you agree we should focus our initial work on consumers with some money but without significant wealth (those with less than £100,000 investible assets or incomes under £50,000)?

We consider that these numbers may be lower than our connections with the investment market indicate as the threshold barrier to those who are prepared to pay fees. However as a starting point to construct workable models it makes sense.

Q24: Are there aspects of the current regulatory framework that could be simplified so that it is better understood and achieves its objectives in a more proportionate manner?

We believe the regulation should be amended to allow 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.

As mentioned, take up levels of protection are very low and we believe there is scope for regulation to allow easier access for consumers through advice.

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.

Q25: Are there aspects of EU legislation and its implementation in the UK that could potentially be revised to enable the UK advice market to work better?

The Mortgage Credit Directive reintroduces tangible disclosure. The reintroduction of initial disclosure requirements following their removal under MMR is not welcomed as they don't interact smoothly with a telephone-based advice process. The prescriptive rules mean that if a customer doesn't have or disclose an email address, the adviser will have to break the telephone call in order to send the required information by post. This will lead to a disjointed customer journey which cannot be in their best interests.

Q26: What can be learned from previous initiatives to improve consumer engagement with financial services?

No comment.

Q27: Are there any approaches to the regulation of advice in other jurisdictions from which we could learn?

No comment.

Q28: What steps can be taken to address behavioural biases that limit consumer engagement without face-to-face advice?

No comment.

Q29: To what extent might the different types of safe harbour help address the advice gap through the increased incentive to supply advice?

We are concerned about the introduction of a safe harbour and its impact on consumer outcomes. We do not believe there should be any deregulation around firms having less liability for the advice they provide. However, whilst consumers are aware of the protections of regulation they do not directly see the cost. It is for this reason that AMI supports a move to product levies which could be made obvious to the purchasing consumer, so that they are aware of both the cost of the FSCS and other regulatory protections and clear when a product has that protection.

Q30: Which areas of the regulatory regime would benefit most from a safe harbour, and what liabilities should a safe harbour address?

This should not be applied to the mortgage or protection sectors, and we would be concerned if this is introduced in any sector.

Q31: What steps could be taken to ensure that a safe harbour includes an appropriate level of consumer protection?

No comment.

Q32: Do you have evidence that absence of a longstop is leading to an advice gap?

We have no evidence that the absence has made any difference to the market.

Q33: Do you have evidence that the absence of a longstop has led to a competition problem in the advice market e.g. is this leading to barriers to entry and exit for advisory firms?

We have no evidence to support such a premise.

Q34: Do you have any comments about the benefits to consumers the availability of redress for long-term advice?

AMI is in favour of the current approach where FOS and FSCS are available to provide appropriate redress for what are long-term products. Any move away from this must include appropriate insurance or leaving capital behind. We remain concerned that although this should already exist we see many firms exercise their corporate right to limited liability, but re-appear operating a very similar regulated business under another name with apparent impunity. Good responsible firms find this difficult as they are paying for these “failures”.

Q35: Do you have any comments or suggestions for an alternative approach in order to achieve an appropriate level of protection for consumers?

We consider a product levy that funds the FSCS a more appropriate way of financing longer term liability for firms that have left the industry. Firms that are still trading should be liable for their advice. In addition, AMI members are currently paying for the rising tide of failed investment advice firms falling into FSCS default and good firms picking up the costs. The historic classifications are not appropriate to the world today and need to be changed as soon as possible. Also we fully understand that the Chancellor thought it wrong that banks should benefit from fines levied on their brothers, so sequestered the funds for charitable benefit. If he had limited this to banks it would have been fair.

By taking this from all authorised firms, the benefit of fee reductions to good firms from the fines on bad has been lost. The good firms have lost out in business to those who cheated and have to pay a second time for compensation with no fee reduction where the FCA has caught up with the bad boys.

We agree with stripping the banks of the benefits within that sector, but not the small advice firms that have bought into FSCS, with the concept that offset from the bad would reduce their bill. If firms cannot have their money back, then we need a new contract that is based on a fairer system so that the toxic products have paid towards their solution. A product levy is the most appropriate solution in addition to the fairness of having our fines back.

Q36: Do you have any comments on the extent to which firms are able to provide consistent automated advice at low cost? Are you aware of any examples of this, either in the UK or other jurisdictions?

No comment.

Q37: What steps could we take to address any barriers to digital innovation and aid the development of automated advice models?

No comment

Q38: What do you consider to be the main consumer considerations relating to automated advice?

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.

Intermediaries play a key role in a housing transaction in that they work for the customer and they will help simplify 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.

We believe automated advice will be detrimental for a significant proportion of consumers in 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. An automated system is very much passive. Advisers will challenge any preconceptions a consumer often has, and engage in constructive discussions which often give consumers a greater understanding, which an automated system will be unable to do. Human interaction and the strength of its relationship encourages consumers to make decisions, not automated propositions where there is still an element mistrust from consumers.

We believe that automated, or even a lack of, advice is likely to lead to an unsuitable product being recommended. There 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.

We do however believe that there is scope for some parts of the advice process to be more automated, for example requesting a consumer to complete a fact find online before discussing it with an adviser, who would then ask further questions and challenge the consumer. However this development very much depends on consumer appetite; as mentioned above one firm already tried introducing this but found consumers did not complete the online forms but instead called the firm during the process.

Q39: What are the main options to address the advice gaps you have identified?

No comment.

Q40: What steps should we take to ensure that competition in the advice markets and related financial services markets is not distorted and works to deliver good consumer outcomes as a result of any proposed changes?

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.

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 who 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.

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 the lender is 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. This is explained as a risk decision, but through another lens could be seen as predatory pricing.

It is often vulnerable consumers who are unduly trapped.

We believe any change made to the mortgage market should address this area of trapped borrowers. We are concerned that any changes made to other advice markets should not impact the mortgage market, so we would hope that any amendments to the FCA's Perimeter Guidance Manual are exercised with caution.

Q41: What steps should we take to ensure the quality and standard of advice is appropriate as a result of any proposed changes?

We believe the introduction of the MMR raised the quality and standard of mortgage advice. The arrival of the Senior Persons regime for the wider mortgage market is welcomed. This delivers a level playing field with our lender partners that is the cornerstone of our approach to the market. It enshrines in a more formal setup, the existing responsibilities that firms and their principals have today. Mortgage intermediary firms, since the crisis, have been exercising increasing diligence on both recruitment and regular vetting of their advisory staff.

However the mortgage market is not identical to investment markets. The FCA has only recently identified resource to undertake a review of the syllabus and learning outcomes for the benchmark mortgage qualification. This is required as it does not currently adequately address second charge, bridging and remortgage.

We consider that level 3 is the correct competence level for this market. There are already level 4 qualifications for those who wish to demonstrate a higher standard. However to push the base qualification to that level means including matters such as funding, capital and portfolio risk. This is not core to competent individual advice. So we are not keen to see this escalation in a market which is working well for consumers.

It would risk diverting advisers into a costly exercise to requalify where there is no evidence of any detriment upon which to construct a business case. AMI remains firmly of the view that whilst passing an exam demonstrates core knowledge, it is the work done in firms with managers and supervisors that develops high quality, rounded advisers who deliver great advice, products and outcomes. Competence is much more than a level of an exam.