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*Association of Mortgage Intermediaries' response to FCA Mission:  
Our Future Approach to Consumers*

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

## Response

It is disappointing that this seems to be another example of mis-apportionment of regulatory resources as there continues to be a focus on producing academic papers rather than identifying the real issues facing consumers and proposing specific solutions to remedy harm. Whilst we understand this paper in the overall context of the Mission, we remain concerned that all these items are seen in isolation and not consolidated into a cohesive whole. We see this in many aspects of the siloed Handbook which is based on products and services and not focussed around the consumer and their needs. It is concerning that the paper does not try to lead to a better understanding of how consumers interact with different types of products and services depending on their needs, nor is there any recognition of advice across this landscape. The FCA's competition objective continues to be prioritised and misinterpreted as its vision for a well-functioning market omits advice, nor is there concern when consumers transact without advice in high risk scenarios. We would have expected the FCA, as part of its legislative remit, to take significantly more into account:

"In considering what degree of protection for consumers may be appropriate, the FCA must have regard to— the needs that consumers may have for the timely provision of information and advice that is accurate and fit for purpose;" (FSMA 1A (2)(c))

## Questions

**Q1. While having regard to the general principle that consumers should take responsibility for their decisions, do you agree that there are circumstances where consumers cannot be expected to take responsibility? What do you think these circumstances are? How could – and should – the FCA intervene in these cases?**

The distinction between short-term products which are lower in terms of cost and impact (e.g. current accounts, credit cards) and long-term products which are more expensive and higher long-term impact (e.g. mortgages, insurance) needs to be considered, particularly how consumers engage with each of these. The paper focuses on provision of information however it can be more appropriate for consumers to receive guidance or advice, particularly for long-term products where they will interact with these on an infrequent basis. The need to have the safeguard of advice is even more acute for vulnerable consumers. Whilst there is some recognition of this we do not consider that the paper adequately addresses the risks, the impact of technology in avoiding assessing vulnerability and the importance of firms who focus on the consumer as an individual and take the full responsibility of giving regulated advice.

Across financial products advice can be: not required, optional, assumed, preferable or compulsory. The most appropriate option depends on both the complexity of the product and the consumer, and this should be recognised when looking to avoid consumer harm. The proposed retirement interest-only mortgage, for example, should only be sold on an advised basis, as it is aimed at consumers with repayment issues who may see this product as their only option. It is not necessary for the FCA to become a product regulator, however they should enforce their existing rules around the responsibilities of providers when designing products and their target market, reiterated in the treating customers fairly outcomes, with regard to product manufacturers being more prescriptive on the need or not for advice.

**Q2. Do you agree that firms have a responsibility to take reasonable steps to identify the signs of vulnerability, and to have processes in place to take appropriate action where they have identified a consumer with a particular need and at a particular risk of harm?**

Yes. However the FCA also needs to recognise that if a consumer is vulnerable they will most likely need advice, and this should be regulated accordingly. The FCA rightly has recognised that consumers can transition into and out of vulnerability and there needs to be proactivity across all firms in assessing and dealing with this. The FCA has already taken steps to escalate this issue with firms and it will benefit from being revisited on a regular basis. AMI will continue to advocate vulnerability processes to our member firms.

**Q3. Which consumer issues do you think sit directly within the FCA's remit, and which are more a matter for Government? Are we right to commit our resources to working with other organisations, such as firms, other regulators, Government, courts, consumer groups etc., where improved consumer outcomes may require action that is not within the FCA's regulatory toolkit?**

This cannot be a definitive list; judgement should be made depending on the issue and action should be taken accordingly. We would generally like to see a more proactive regulator. It should be very much up to the judgement of the executive team monitored carefully by the Board and Panels to ensure that the focus of the FCA is appropriate and is using its resources to optimum effect. We consider that the budget afforded the FCA by the industry is adequate and it for those who govern the activities to ensure that the activity and output is relevant. As part of the Mission work it would be positive to see more clarity about the purpose of the Board and its work, and cognisance taken of Panel input.

As a specific current example, we have not seen anything from the regulator regarding the punitive ground rent clauses on leasehold contracts; we assume because this has been considered to be outside of its remit. However a wider view needs to be taken. Affected leaseholders have been left in the position where they are unable to remortgage as lenders have now decided the property was previously overvalued.

We consider that where action is required by the FCA, both on regulatory issues (such as the enforcement action on the British Steel pension transfers) and in conjunction with other organisations, this must be adequate. Further, the stronghold that providers have on the regulator still has a fundamental impact on the work that it carries out, not least the lack of intervention in the collapse of HBOS and the failure to effectively address PPI mis-selling and mis-handling of complaints.

We have previously raised our concerns around whether sufficient focus and resource is allocated to ensuring those who occasion losses through the FSCS are subjected to appropriate supervisory and enforcement action. It is critical that those who may be a danger to firms and consumers are prevented from achieving authorisation under a new guise.

**Q4. Do you agree with the aspirational vision and outcomes that we explore? Are there any further barriers or risks to us achieving it.**

This has been answered elsewhere.

**Q5. What further metrics would you use? Are there any specific data sources or tools that may be of benefit?**

We are concerned by the FCA's focus on data science. We would not want to see an over-reliance on algorithms, particularly where the FCA "can use them even when we have limited prior knowledge to guide us"<sup>1</sup>. With large datasets there is more risk of mis-interpretation by identifying insignificant correlations. Where algorithms use a sample set of data, understanding whether this sample is representative and to what degree it is reliable for extrapolation is important.

The regulator should also focus on which data is actually useful, as requesting vast amounts of data from firms without consideration of a cost benefit analysis is a waste of resources. Whilst data is undoubtedly useful in identifying trends, outliers and emerging risk, quality regulation and supervision is still, and for the foreseeable future, a human skill. We are concerned that in re-engineering the FCA we encounter many quality individuals, but too often they lack the knowledge or experience of the sector they are reviewing. Experience, knowledge and instinct have to be prevalent in effective work on the consumer agenda rather than theoretical models.

**6. Do you agree with this framework? Would you like us to consider any additional or alternative factors in how we regulate:**

- a. for all consumers**
- b. for the most vulnerable or excluded, and**
- c. to meet the challenges of the future**

This has been answered elsewhere.

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<sup>1</sup> <https://www.fca.org.uk/publication/documents/from-maps-to-apps.pdf>