Association of Mortgage Intermediaries' response to FCA MS16/2.2: Mortgages Market Study Interim Report

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

Introduction

Since competition has been incorporated into the FCA's remit we have expressed concerns about how this has been interpreted by the regulator. The addition of this objective in 2013, whilst separate, does not merit siloed resources nor a disproportionate focus on competition alone. Furthermore, with market studies supposedly only conducted where "characteristics indicate low levels of competitive pressure" and where "the market size or type of customer indicates harm on a significant scale or severity" it has been clear that the Mortgages Market Study, launched before the Mortgage Market Review (MMR) had been embedded and before the Mortgage Credit Directive had even taken effect, fails to meet either objective test. We have been concerned from the outset that this has been remedies looking for justification rather than a fully evidence led study.

The interim report found high levels of consumer engagement, good levels of switching, a reassuring range of products on offer with apparent competition on headline rates. Important also is that they found no evidence of commercial arrangements between firms impacting consumers adversely. This is better than most other markets the FCA has looked at.

It is therefore unsurprising that a very competitive market has been found to be functioning relatively well. It is concerning however that despite many positive conclusions, several remedies have been proposed which we consider to be disproportionate to the "harm" identified (notwithstanding the fact that these have been based on what we consider to be flawed analysis). The conclusions ignore that FCA rules allow the exclusion of some of the deals applied in the comparison. It appears that these remedies may result from a need to justify the resources that have been dedicated to the study over the last three years.

Methodology

We are concerned about the pervading focus on price, on which conclusions and remedies have been based. It is not acceptable that suitability has not been properly considered. Neither is it sufficient to simply add caveats and make unsubstantiated claims that exclusions such as soft facts "do not materially affect the usefulness of our findings", without explanation. Suitability is the foundation of regulated advice. Nuanced conversations about customers' needs and circumstances, evidenced in the actual case files rather than by comparing credit profiles to different individuals, are key to an adviser's recommendation of a suitable product.

In this case "needs" has been interpreted to mean "cheapest product". For the FCA to conclude that some customers "are capable of picking a well-priced mortgage product on their own; a relaxation of the requirement to receive advice may better meet their needs" shows that it has already redefined price as the basis of what a customer needs. We do not agree that redefining advice in this way will deliver better balanced outcomes for the majority.

It is even more baffling that despite finding that intermediaries recommend the cheapest product available to them in 79% of transactions, indicating a significant proportion of customers are obtaining both a suitable and well-priced mortgage, this is not considered an adequate outcome.

The paper reflects a narrow view of the role of advice. Consumer vulnerability has not been adequately considered in these proposals, and a transactional view has been adopted whereas advice may also include discussions on protection, later life and wider needs. It is weak to conclude that 20% of first-time buyers and 30% of home movers which took advice post-MMR "in all probability would not have done so before MMR" when customer files were not reviewed, instead credit profiles of "similar" individuals matched but with no evidence of comparable needs. It is dangerous to assume that a customer who did receive advice would have ended up with the same product if they had not spoken to an adviser. The post-MMR advice review found that the best advisers "asked sufficient questions of customers to objectively assess needs and circumstances" and that they "probed and challenged customers". It is during these discussions when any product that the customer had in mind beforehand might not end up being the product recommended, and to the customer's benefit. It is therefore contradictory to conclude on such limited information that these customers would have known to choose the recommended product without an adviser.

The market is already moving forward on the issues raised in the study, with a range of firms, both new and existing, developing a range of solutions which will improve the customer journey. As the data reviewed dates back to 2015 and 2016 and the field-work effectively ceased in mid-2016, the progress made by the industry and by new fintech entrants in the last year is largely ignored. Intervention in the scale proposed is therefore likely to hinder the ongoing innovation rather than propel it. Should we commence work on eligibility tools we consider that innovation will be delayed until the group agrees its outcomes as investors would not want to be funding potentially obsolete solutions. We do not believe that it is the role of the FCA, or trade bodies, to intervene in commercial areas to compete with existing providers or select one firm over others to define or deliver solutions.

The proposal to re-define advice first appears to stem from the FCA's push for innovation, yet it admits that it received "little detail on any specific Handbook provisions that are a barrier". With many innovative solutions having been launched since the analysis was carried out and more in the pipeline, it is clear that such barriers do not exist. We therefore consider it inappropriate that radical changes should be made to advice without sufficient evidence or justification. Any comments around the "complexities" of advice are made by either new market entrants without sufficient knowledge of financial services (often wanting an 'easier' route to market) or by lenders with inflexible linear fact find and application processes, not by intermediaries. The FCA should instead be trying to understand these firms' approach to risk and provide guidance where necessary. **It should not rewrite MMR when there are no systemic or significant issues in the current advice structure.** However more examples of what is permitted within Execution Only transactions might help deliver some simpler consumer journeys.

Conclusion

There appears to be little consideration of the reasons behind the measures that were taken following the last financial crisis and the rationale for their implementation. This resulted in focusing on protecting consumers by recognising the need for advice with firms taking responsibility for their products, services and actions and ensuring that many of the bad practices could not be repeated. The subsequent thematic work on a range of related topics has also encouraged firms to improve practices by emphasising good and poor practice, an approach we fully support.

We have a market where many lenders choose not to sell direct, not advise or accept execution only deals. Any market solutions must embrace all participants, not just those large lenders with significant legacy back books who need change to survive by reducing their costs at the expense of consumer advice and responsibility.

Consumers should have the right to have full regulatory protections as well as firms needing to embrace technology and change to deliver great, competitive, best priced products. We believe the market is already impelled to change and does not require intervention. We do not support any move to grow execution only at the expense of FCA, FOS and FSCS protections. These would be backward steps based on price only analysis. Customers who have enjoyed advice understand its value, and the FCA should recognise its benefits and not buy the simple direct fintech offering compromise which is opaque about its actual processes.

Finally, with the thematic work done on the mortgage market and the level of checking completed by firms, networks and lenders, we are finding it difficult to reconcile the price differences identified in the study on the scale projected. If this was as prevalent we consider that industry data and checking would identify this. We therefore feel that with the soft facts in case files, permitted lender exclusions (panels and direct to consumer) the case for major change is not delivered. Indeed it would require more fundamental rule change rather than tech innovation to achieve this. We consider that the additional time taken for some consumers to get advice is balanced by those who benefit from the process and might opt out if new processes were introduced. The FCA has neither proved the need for this degree of change nor delivered a cost benefit analysis to support the recommendations.

Notwithstanding the above and our responses, AMI remains fully committed to working with the FCA, industry and other trade bodies to debate this study, agree the appropriate remedies and actions and deliver the agreed changes to the market to improve the outcomes for all consumers.

Questions

Q1. Do you have any views on our vision for the market?

We do not think that the FCA is taking a proportionate approach to achieving this vision. We consider the market is functioning competitively and is already reflective of the FCA's vision. We therefore consider the proposals disproportionate given the resources (both time and cost) required and the potential risks do not outweigh the scale of the potential benefits.

Aside from the limitations of the analysis (in particular the exclusion of significant data, as well as being out of date), statistically positive conclusions were drawn therefore justification for large scale changes to the market is lacking. Some of the narrative (in the underlying research in particular) not only demonstrates a lack of understanding of the market but an aversion to intermediation and advice in general. We are therefore concerned around any proposals which have been made to advance an agenda brought from other markets that do not have similar characteristics.

We are concerned that the study has been based on a misunderstanding of distribution. The customer journey and how this differs depending on the channel does not appear to have been understood. Previous FCA research identified that customers find it difficult to distinguish the role of mortgage advice "from other aspects of the application process, in particular the lending decision". This is prevalent where a customer transacts directly through a lender, whose processes are designed in a linear fashion. Intermediaries will carry out a fact find as part of their 'know your customer' requirements before sourcing a product, then give the customer a recommendation, and once this has been accepted prepare the application to the lender (the point at which a hard credit search is carried out). However when a customer speaks to a lender, the fact find becomes part of the application process. The recommendation merges into the approval process. It is difficult for a customer to reject any advice as by this point underwriting will have already been carried out. It is disappointing that by adopting a simplistic view of advice, and a focus on price, these differences have not been adequately considered.

This is a complicated market with a range of inter-dependencies, which we fear has not been fully taken into account. The consumer wants a home, with the mortgage and the complexities of obtaining that better served with an adviser who can guide them through the issues. This is well illustrated by the re-appearance of down valuations which can be resolved with professional help but would leave the standalone consumer unaware of potential solutions.

The lack of understanding extends to the wider mortgage market, which is not only evident in the study papers but also from discussions with the FCA and at events. We have set out below a selection of examples, which include feedback from advisers and member firms:

- The study was separated into multiple papers and carried out by different people, based on different data and thereby inconsistent approaches:
    - One piece of research excludes two thirds of the market (remortgages and product transfers) – a limitation in itself – yet another piece of research did include remortgages.
    - One piece of research looked at products listed on Moneyfacts between 2011 and 2016, whilst another was based on mortgages between 2014 and 2016. With such a shift in products over this period of time the FCA has ultimately analysed two different markets.
    - One piece of research only focused on two-year fixed products, which is very narrow given that longer fixed products are more common, particularly in the market today. This narrow selection produced an average value of circa £132,000 as opposed to the market norm of above £175,000. We feel this needs a full explanation as it may have influenced the results.
- The limitations of using Moneyfacts as the sole source of mortgage products have not been recognised. This data omits products (e.g. from some small building societies, intermediary exclusives) and may not be up to date given it is only produced in paper format. Lenders do not prioritise Moneyfacts to update their information (both new products and withdrawal) ahead of the main Sourcing Systems which are on-line and active daily. Products appearing at the top of Moneyfacts deals are not likely to be from the top six lenders so do not have processing or fund capacity to sit in pole position for very long, if they were accessed on the scale envisaged by the study.
- In using Moneyfacts data rather than the information from the two main sourcing systems, the study has not used the data used by advisers and no analysis or recognition over differences between these systems has been undertaken.
- Limitations on access to products have not been adequately recognised. There is a substantial difference between the number of products available across the market to, and between, appointed representatives and directly authorised firms. Many of the challenger new entrant lenders have chosen to make their products available exclusively to appointed representatives. This is often to test scale, systems and control limited capacity of capital. Lenders choose who they distribute their products to, and it is not uncommon for them to limit who they will do business with based on the size of the intermediary firm. Intermediaries are unable to recommend a product they cannot access.

- The FCA study team does not appear to have a clear understanding of the difference between a panel and a mortgage club, and the lender restrictions on distribution that occur in each. For example, there is an assumption that if you are a member of a mortgage club you can access all the products or if there is a panel you can choose any lender.
- The findings do not appear to take into account the vast difference in regional lending choice such as across Northern Ireland compared to mainland UK.
- Advisers focus on suitability with regard to a customer's needs and circumstances. This may not always be the cheapest, for example:
  - One lender will use 100% of all incomes, including child benefit, tax credits, etc. This means advisers may recommend them over and above 'cheaper' options because only the use of this income will provide certain customers the level of mortgage they require. This can mean ignoring four or five lower cost deals.
  - For self-employed individuals most lenders will use the average of the last two or three years of income. A small number will instead accept one year's accounts, which is suitable for new businesses and individuals who have maybe had a poor year, followed by a much better year. Again this would result in many 'cheaper' mortgage deals being overlooked as they would not generate the required loan size under their income criteria.
  - Many self-employed individuals paying higher rate tax will leave income within their limited company when they do not need to access it, rather than withdraw it as income and pay higher rate tax on the amount. As most lenders assess income as money withdrawn from the business, this retained profit is ignored in their lending decision. A few lenders however will assess income as salary, plus net profit from the accounts, which is more suitable for these customers as they will be able to gain a more realistic mortgage level based on their available income. This will result in 'cheaper' deals being discounted as they will not use accounts as proof of income and therefore will not offer the required loan size.
  - Some consumers will not stretch their LTI capacity as they are honest about the level of lifestyle expenditure they wish to maintain, so restricting choice on affordability.
- Intermediation is estimated to "considerably" increase the average mortgage term by 20 months, which only represents a 6% increase in term. This is likely as a result of high quality advice as by extending the term slightly it frees up budget for the customer to fund proper protection for the new loan and their lifestyle. In addition the Help to Buy market is predominantly intermediated which due to the scheme rules naturally defaults to longer term loans.
- Focusing only on originations when assessing the impact of advice means the value of advice and intermediaries in helping customers get a mortgage in the first place is not acknowledged.
- Whilst the study provides some new data on the scale of product transfer activity it does not fully quantify this. It also does not provide any analysis on what is more than one third of the overall market. This omission must call into question the overall conclusions and recommendations. **We are grateful that UKFinance has now commenced releasing some data, but the failure of the study to recommend collation and publication of data on this area is disappointing.**
- Bias against intermediation is clear with statements such as "intermediaries may be tempted to reduce search cost by using fewer, familiar lenders" and "intermediation increases the likelihood of choosing a 2-year fixed rate mortgage… [which] could be explained by differences in the type of advice provided by intermediaries […] or incentives for intermediaries to generate follow-up commissions by recommending shorter-term deals". There is no justification or evidence behind these claims, but purely opinion which calls into question the conclusions. The assumptions were also heavily weighted against intermediaries, with no balancing claims such as lenders having incentives to recommend longer deals to retain business being made.
- It is stated that in 31% of intermediated transactions a mortgage was advised where there was a cheaper alternative equivalent product available. A great headline for PR, but in the report immediately amended – to only 21% if direct only products are excluded and to 13% where the lender may not have been open to all brokers. Legitimate reasons by the FCA's own rules to exclude these products.

- It is likely that service standards both in terms of the ability of the lender to take on-line applications and document upload, alongside understanding of the time from Application to Offer might form a significant part of the joint advisor/consumer decision which is not addressed in any way in this work.

Q2: Do you think tools of the kind outlined could help consumers find more easily the best mortgage for them?

The study has focussed uniquely on price and a premise of "Making it easier for consumers to find the right mortgage". This appears to favour direct to consumer offerings at the expense of intermediation. We do not think this is in keeping with the objectives of the FCA in maintaining market confidence, stability and protecting consumers. The complexity of consumer needs (not wants) and the range of lenders and products in the market place lead us to consider that tools which allow consumer to self select and transact direct risk, on balance, poorer outcomes in the medium term. We would want this to be carefully considered by all market participants before proceeding. Benefits would need to be demonstrable.

In any event, firms are already innovating in this area and we would note recent developments of refined criteria sourcing systems. This is happening both in standalone commercial firms and in existing clubs, networks and larger firms. **We do not think it is necessary for the FCA to intervene in this area. We would see any regulatory work in pushing a particular commercial solution as anti-competitive and outside of its remit.**

The timing of the market study should not be underestimated. At the time the analysis was conducted, firms were still in a reactive phase of having to adapt their business models and processes at pace with the continual regulatory changes over the previous five years and coming to terms with constraints on lending capacity following the crisis. It is not a coincidence that now firms are able to look forward and invest in technology. The most effective way to ensure firms continue to innovate is for the FCA to avoid intervening in a market so it can recover.

Any cross body work to impel standards or applications is likely to stall innovation as firms wait to see the structure and standards adopted thereby ensuring they are not pursuing a valueless approach or technology.

Q3: What do you think would be necessary for this approach to work and what do you see as the main challenges? *(e.g. What would be required to ensure that lenders can provide intermediaries with the means of identifying (earlier) products for which consumers qualify? Are there any technical barriers to further development? What is needed to give consumers meaningful outputs, even if they don't qualify for products?)*

We do not believe there are issues in lenders being transparent about their criteria to intermediaries or consumers, and there continues to be development of tools in order to aid consumer understanding of which products they are eligible for (e.g. MortgageGym, Knowledge Bank, Criteria Hub). Networks and Clubs are already very active in this area and manage huge quantities of this type of data.

We do not understand why the FCA is considering such an approach when the Handbook already sets out requirements on the provision of information to firms and customers. We would expect to see the FCA ensuring firms understand its own rules instead of embarking on an exploratory industry project. The commercial agreements between firms are outside the FCA's remit, therefore it should not be "encouraging" unregulated firms to develop solutions, nor should it be favouring price comparison websites through which consumers could transact.

We are also concerned that the work does not identify if there were "main" expensive lenders or who the "cheaper" options might be. We have no confidence that the cheaper options have capacity to meet potential demand for their products.

Q4: Could there be any unintended consequences? *(e.g. Do our ideas in this area present any risks to consumers or industry? Does this dampen incentives to innovate?)*

Yes. Developing (and thereby favouring) a particular commercial solution could be considered anti-competitive and it is not the regulator's role to interfere in this way. The market is already naturally innovating and any intervention will hinder this.

The market is currently accessible to most consumers but the proposed approaches risk reducing lender appetite to underwrite on an individual basis, which they are entitled to do as commercial entities who are also accountable to the Prudential Regulation Authority. Taking drastic measures as a result of such limited research and no cost benefit analysis is inappropriate. Looking at six lender websites and four intermediary websites over the course of two months, a year ago, is an insufficient basis to mandate publication of lender criteria. It is concerning that in comparison, the FCA focused on eight price comparison websites during this period, making it clear that the FCA is not channel-neutral.

Those consumers who take advice from lenders or intermediaries will also get help in understanding the offer process; how the survey process operates and what alternative survey types are available; and assistance in ensuring they select the right solicitor or conveyancing option.

We consider that advice is a holistic process including discussions on insurance and protection which by moving towards consumer self selection tools, might improve one aspect of the mortgage journey but will not deliver wider house owning benefits.

Q5: Do you think consumers would benefit from more choice on the tools they use (including advice) and the support they receive in the way outlined above? *(If so, which categories of consumer? Or if only some consumers should have more choice about whether or not to receive advice, which categories of consumer are these? What else could we do to encourage the development of online advice?)*

Given that the FCA has admitted firms haven't been able to identify any particular rules that are precluding them from innovating, it seems illogical for the FCA to propose amending its rules in any way. The current rules on advice and guidance are sufficient in setting the regulatory boundaries, however some firms' regulatory risk appetite will be a factor in how they frame discussions with consumers. The FCA should be working on clarifying its existing rules rather than considering amending them in favour of execution-only sales. By considering adding in more detail including the lender "affordability/sanctioning" tool risks consumers going direct on the basis of limited understanding of product features, which may obviate the headline price/fee benefit.

Q6: What do you think would be necessary for this approach to work and what do you see as the main challenges? *(e.g. Should we trial an approach to give consumers more information about whether to receive advice? Are there other regulatory barriers to the development of tools to help consumers choose a mortgage more effectively?)*

We are strongly against any proposal to change the definition of advice. With consumer behaviour increasingly shifting to online platforms, firms are already innovating in developing online solutions to meet consumer expectations. We are concerned that the FCA is unsatisfied with the role of intermediaries and advice. With the development of new models, as well as the domination of execution only sales within product transfers, we do not understand why the advice landscape warrants regulatory intervention, ultimately based on flawed analysis which was in respect of a small proportion of consumers who the FCA believes "might" be better off without advice.

The FCA should issue further guidance to firms around what constitutes regulatory activity in order to encourage more firms to feel comfortable in giving consumers information and guidance without straying into advice. Fear of supervisory action or ombudsman decisions where advisers step outside the product areas they are regulated to advise on in order to give information or guidance on actions the customer could consider is holding the market back more than any limitation in the MCOB rules or Perimeter Guidance.

Q7: Could there be any unintended consequences? *(e.g. Do you have any views on the impact of reduced regulatory consumer benefits for those consumers who would no longer seek advice? Could there be any unintended consequences to increasing provision of online advice? If so, how might these risks be mitigated?)*

The greatest consequence is that consumers do not get a suitable product, resulting in financial loss which will be unrecoverable where the sale is non-advised. This is particularly acute for vulnerable customers who should be safeguarded by advice.

Vulnerability is not a set list of defined characteristics. Whilst not all older consumers are vulnerable, as part of the FCA's work on the ageing population, the Big Window research on the ageing mind identified that older consumers are more likely to become vulnerable as the ageing process is likely to affect consumers' abilities to make financial decisions. These consumers are also likely to need to consider the wider impacts of using other assets or equity release, all usually advised sales. Indeed the FCA's own research indicate that 50% of consumers will be vulnerable at some point in their financial lives and 37% of mortgage borrowers.

Customers with leasehold properties are also a group particularly in need of advice, particularly if the leasehold contract contains restrictive clauses, escalation clauses or is time limited. In addition Help to Buy remortgage customers will also need advice where a number of considerations such as the property valuation, ability to repay any of the equity loan, availability and cost of mortgages versus the cost of the equity loan will require a discussion with an adviser. As we now have over 15% of the working population in self-employed roles, and the mortgage sub-set likely to be higher, the need for advice is greater for that group.

The purpose of allowing more execution only can only be to drive down the price paid. If this is restricted to execution only products it could mean that advice coming at a premium discourages the more vulnerable who need advice to avoid it.

We do not believe there is sufficient justification to dilute consumer protections. The risks of allowing more execution-only transactions have not been properly considered and would note the FCA's multi-firm review into online investment services as a recent example. Even previous FCA work and research has found that consumers wrongly believe they are receiving advice when they are not. There also appears to be little concern around the increased risk of firm misconduct and fraud that results from relaxation of rules, which causes reputational damage to the sector and in the event of default gives rise to liabilities paid by the rest of the industry.

Q8: Do you think consumers should be given more help to assess intermediaries' strengths and weaknesses in the way outlined above?

We are concerned that these proposals are disjointed, without regard to other markets or regulatory developments. The FCA is separately consulting on a new directory for all firms following the proposals to extend the Senior Managers and Certification Regime next year. We would expect the FCA to follow due process and not lead any separate work which focuses purely on mortgage intermediaries.

We will respond separately to the proposals under CP18/19 on introducing a consumer-facing directory. We believe that no matter how information on intermediaries is available to consumers, existing platforms should be considered rather than unnecessarily building a tool from scratch. The FCA register is held both independently and on the basis of consistency – whether the firm is an insurance, investment or mortgage intermediary, comparable information is given. The Money Advice Service (MAS) also hosts a retirement adviser directory, in which the industry committed time and resources leading up to its implementation to agree on its structure. It would therefore be inappropriate to duplicate this work by creating a separate tool, not to mention confusing for consumers to be directed to multiple sources. With the industry recognising the value in consumers having more holistic discussions due to interlinking needs, any proposal to segment regulated markets and firms' businesses further dampens this progress.

We do not believe it is the FCA's role to push for a commercial solution. Commercial firms already offer a directory in which firms pay to be shown in results, with additional costs applicable for benefits such as prominence.

Q9: What do you think is necessary for this approach to work and what do you see as the main challenges? *(e.g. What information is needed for this to be of practical value to consumers, such as the price, service and quality factors? How can we ensure the information gains traction with consumers?)*

Whilst there is value in helping consumers choose an intermediary, there must be a level playing field in the information that is provided across regulated firms. Intermediaries are already required by the FCA's rules to disclose their fees, scope of service and a list of lenders used. We believe it is inappropriate for the directory to show:

- distribution of business – this is misleading on the basis that consumer needs are not comparable
- number of complaints – whether or not these are against the regulated firm, which for networks will be the principal, these are misleading without context of the type of complaint and whether it was upheld
- reviews – intense resources are required to monitor and verify these, as there is a significant risk of these being manipulated. It is inappropriate for the regulator to push for a ratings-led platform

Neither the FCA register nor the MAS directory display such information on firms, therefore it would be misleading to do so purely for mortgage intermediary firms. Indeed the MAS Retirement Adviser Directory is a good blueprint for this remedy. It delivers information on firms able to meet agreed criteria, but stops short of trying to evaluate the quality of the firms outputs, rather focussing on its offerings. We support such an approach and also consider the FCA recommendations for information proposed by CP18/19 as being appropriate.

Q10: Could there be any unintended consequences?

Wasting firms' fees by dedicating resources to duplicating work already being carried out elsewhere within the FCA.

Q11: Do you think it should be made easier for consumers with active regulated lenders to switch?

We believe the FCA should focus on borrowers who are unfairly trapped into their existing mortgage by enforcing its existing rules, as well as making consumers more aware about their ability to switch. The first cohort result from lenders unnecessarily denying borrowers access to mortgage products or lower rates which should be allowed under the FCA's MMR porting and transitional rules. This is in addition to the issue that borrowers cannot access mortgage products specifically as a result of the application by lenders of a rigid interpretation of the MMR affordability requirements, but "common sense" should not allow them to be trapped. We are concerned that the work done appears to be "desktop", with no specific identification of poor practice in some lenders who segment customers based on their ability to remortgage, so effectively imprisoning them.

The second cohort stems from lenders not treating customers fairly. Some lenders are incentivising customers to switch to another product before the end of the initial term, without seeking advice on whether this is suitable thereby potentially to the customer's detriment. Other lenders in their desire to retain existing customers are sending limited product transfer offers, not from their whole product range, which impedes customers' abilities to make informed decisions. We are concerned with the FCA's preconception that there is "little difference in financial benefits from switching internally versus externally" and the belief that there are "additional costs of switching externally". Whether a product transfer is cheaper than a remortgage will depend on varying factors, including the consumer's profile and needs. Ultimately consumers should be obtaining a mortgage that is suitable for their needs and circumstances, and not driven purely by price. Intermediaries will look at all mortgage products available as part of their advice. For example, a consumer may be planning to move house in the short-term, but without a discussion of their needs they may select a 'cheap' product which lacks the ability to port or is attached with early repayment charges.

Whilst the FCA identified a sample of consumers paying a high reversion rate, the focus should be on ensuring fair access to products and advice, not on cost.

Q12: Which consumers should be covered in our approach? *(e.g. Do you have views on whether any intervention in this area should be limited to consumers who took out a mortgage or last switched prior to a tightening in lending criteria post-crisis? If so, what would be an appropriate date? Should we include other groups of customers such as those who have fallen into financial difficulty as a result of being unable to afford payments on a reversion rate, but would otherwise satisfy the remedy constraints/criteria? Or should we leave customers in arrears to be considered under our payment shortfall rules and guidance in MCOB 13 which set out how we expect firms to treat consumers in payment shortfall fairly given the customer's individual circumstances?)*

Those unable to switch are not limited to those who obtained a mortgage pre-MMR (which will include self-employed and interest-only customers) but continue to be extended as other market issues emerge. Some customers who obtained a buy-to-let mortgage before the portfolio requirements were implemented will find themselves unable to switch. Borrowers of leasehold properties with restrictive clauses, such as escalating ground rents, are unable to remortgage. The FCA needs to take a wider view on consumer detriment to include trapped borrowers as a whole, rather than just those who pay a reversion rate of more than 3.69%.

Q13: What do you think is necessary for this approach to work, and what do you see as the main challenges? *(e.g. How could any changes be effectively communicated to the relevant consumers?)*

Disclosures should be made to encourage consumers to shop around and to seek advice.

Q14: Could there be any unintended consequences?

We will leave our colleagues at UKFinance, BSA and IMLA to comment further.

Q15: Do you think we should do more to encourage long-term inactive customers to switch in the way outlined above?

Yes.

Q16: What do you think is necessary for this approach to work in the mortgages sector and what do you see as the main challenges? *(e.g. Is this something that could be delivered by the industry or would it require new or amended rules or guidance to prove effective? What would be an effective alternative where no suitable product is offered by the customer's existing lender? Do you have any views on how affected consumers could be offered a better deal?)*

We will leave our colleagues at UKFinance, BSA and IMLA to comment further.

Q17: Could there be any unintended consequences? *(e.g. any impact this could have on prices for new customers)*

We will leave our colleagues at UKFinance, BSA and IMLA to comment further.

Q18: Do you have any comments on our timelines?

Given the timelines of the study so far and the lack of any legislative time restrictions, we would want to see a measured approach taken to any actions. Full consultation with industry and proper consideration of feedback should not be sacrificed to meet arbitrary deadlines. As outlined elsewhere in this response, we believe that broadly the market does not require regulatory intervention. We would not want to see an inappropriate push for solutions to satisfy any reputational desire to be seen as being proactive.

We would want to see the views of the consumer lobby and a wider view of member firms before committing to solutions. We should not be running too far ahead of the agreed process in delivering a final report as set out in or letter to Andrew Bailey dated 18 June 2018.

Q19: Do you have any views on the relevance of our findings on first charge residential mortgages to other mortgage markets that we regulate and which were not within the scope of the market study – for example, second charge?

It has been concerning that with such a narrow focus of the study there has been a lack of understanding of its implications. With first and second charge mortgages regulated under a unitary regime, any changes to rules will impact the entire sector.

Q20: Do you have any views on the extent to which these potential remedies (with further enhancement or refinement) are relevant to lifetime mortgages (in light of our assessment of lifetime mortgages in Annex 5)?

We are pleased that the FCA has recognised that switching cannot be simply applied to the lifetime mortgage market. The nature of these products, for example, mean that borrowers will find it more difficult to switch and due to the costs involved nor should they be encouraged to do so, without full justification, independent legal advice and mortgage advice. Our views on the other remedies are the same across all mortgages, including the later life market, so we refer to elsewhere in this response.

Q21: Do you have any views on these options or any other alternatives?

We agree that there shouldn't be any intervention in the products themselves. The range of mortgages matches the greatly differing and complex needs and circumstances of consumers. Providers also have differing costs of capital, management expenses and risk appetites as well as the right to select their own profit margin, thereby providing a varied and competitive market which, whilst complex, provides more consumers with a cost effective solution. Because there is such a rich and varied choice of suitable products, prices are competitive. Rates are varied according to risk meaning there is less cross-subsidisation. Simplifying the product however (e.g. CAT standard mortgages) would only marginalise a segment of the market as their needs would not be met. Intervention risks losing this variety as profitability and capital could be squeezed.

As outlined throughout our response, we strongly disagree with the inappropriate focus on price and would therefore oppose any proposal to redefine advice based on price.