Association of
Mortgage Intermediaries

Association of Mortgage Intermediaries' response to CP22/19 Creation of baseline financial resilience regulatory return

This response is submitted on behalf of the Association of Mortgage Intermediaries (AMI) and the Association of Finance Brokers (AFB). AMI is the trade association representing over 80% of UK mortgage intermediaries. AFB sits within AMI and represents second charge (formerly secured loan) brokers.

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. AMI members also provide access to associated protection products. AFB members also provide access to unsecured products.

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

Introduction

AMI recognised the need for the FCA to collect data from solo-regulated firms during the Covid-19 pandemic, as it was an unprecedented situation and the impact on the financial services market unpredictable. However, as we emerge from the pandemic and into 'business as usual' we believe the FCA shouldn't apply the same broad brush approach to the collection of baseline financial resilience data.

We believe a proportionate approach is required to ensure data is collected from those firms where the risk of harm to consumers or to market integrity following firm failure is more likely. In our view mortgage intermediary firms do not pose a significant risk of harm to consumers or market integrity, should a firm fail and therefore should be excepted from the FIN073 return.

Firstly, the majority of mortgage intermediary firms do not hold client money (there are a small number of mortgage intermediary firms that advise on protection insurance or GI under a delegated authority, handling premiums and/or claims payments). Secondly, mortgage intermediary firms are subject to FCA MIPRU limits which are designed to equip firms with capital resources should they cease trading. As MIPRU 4.1.16 states '[having adequate capital] reduces the possibility of a shortfall of funds and provides a cushion against disruption if the firm ceases to trade.'

In our view, there is a low risk of disruption should a mortgage intermediary firm cease to trade. In the event of a mortgage intermediary firm exiting the market, one option would be for the firm to transfer their pipeline wholesale to another broker. Although we recognise this may not always be possible due to lenders' systems linking applications to the original broker – this could result in re-submission of the application, potentially on a different rate. However, it's important to note that mortgage intermediary firms build up procuration fee pipelines which, along with the MIPRU requirements, should, in our view, provide adequate liquidity to enable an orderly wind down (for example by maintaining a skeleton workforce to manage outstanding mortgage and protection applications through to completion).

It is for these reasons that we do not see a significant risk of harm to consumers or market integrity should a mortgage intermediary fail, that cannot be monitored sufficiently by the FCA through existing regulatory data.

To illustrate, there is an element of cross-over between data collected via the RMAR and the proposed questions in FIN073. We explore this further below. The FCA should be mindful of the aggregate effect of the growth in data submissions on firms, particularly smaller firms. In smaller mortgage intermediary firms, the owner of the business often also advises customers and therefore a permanent additional regulatory return could divert firms' attention from dealing with customers.

Finally, notwithstanding our previous comments, we question why the FCA is requesting this information within a shorter timeframe compared to other financial RMAR items that are also due at the end of each quarter. We believe the submission dates should be aligned and firms given 30 business days to submit the FIN073 return.

Questions

Q1: Do you agree with the scope of firms proposed to be subject to FIN073? If not, please explain.

No, we do not agree. As a regulator, the FCA is committed to proportionality and has demonstrated that it wants to move away from 'one size fits all' regulation (for example through the new Consumer Duty, which is outcomes based).

We believe mortgage intermediary firms should be exempt from FIN073. The main purpose of collecting baseline financial resilience data is to reduce harm from firm failure. However, in the mortgage intermediary sector we believe there is not a significant risk of harm to consumers and to market integrity should a firm fail.

Firstly, mortgage intermediary firms' work on operational resilience has shown that there are none, or only a small handful, of important business services – services that if disrupted would cause intolerable consumer harm ("intolerable" defined as harm that a consumer could not easily recover from).

Secondly, in our view the risk of significant disruption should a mortgage intermediary firm cease to trade is low. In the event of a mortgage intermediary firm exiting the market, one option would be for the firm to transfer their pipeline wholesale to another broker. Although we recognise this may not always be possible due to lenders' systems linking applications to the original broker and could result in re-submission of the application, potentially on a different rate. However, it's important to note that mortgage intermediary firms build up procuration fee pipelines (money paid by the lender for introducing the customer) which, along with the MIPRU requirements, should, in our view, provide adequate liquidity to enable an orderly wind down (for example with a skeleton workforce to manage outstanding mortgage and protection applications through to completion).

Thirdly, a mortgage intermediary firm generally does not hold client assets (there are a small number of mortgage intermediary firms that advise on protection insurance or GI under a delegated authority, handling premiums and/or claims payments) further reducing the risk of consumer harm should a firm fail. In CP22/19 the FCA provides two examples where the financial resilience survey data allowed it to intervene and in both cases the firms held client assets, suggesting this is a key risk indicator from an FCA perspective.

We ask the FCA to provide a breakdown of the types of firms the FCA has acted on following insight gathered from previous financial resilience surveys and data on how quickly the FCA acted on the information provided. It is important for the FCA to provide this information, as it will allow stakeholders to make a balanced judgment on the types of firms that should be within scope of FIN073.

Finally, we feel collecting financial resilience data from mortgage intermediary firms on a quarterly basis is excessive. Mortgage intermediary firms are already required to submit financial data twice yearly via the Retail Mediation Activities Return (RMAR). There is an element of cross-over in data questions 1, 4 and 5 of FIN073 with the data reported in RMA-A, B and D1 (RMAR). In particular, the data on capital submitted via the RMAR is designed to ensure that firms have sufficient resources to absorb routine losses or redress claims and can make appropriate arrangements for an orderly wind-down. We are therefore unsure as to the benefit to the FCA of additional information from mortgage intermediary firms via a permanent supplementary return.

Q2: Do you have any specific comments on our proposed questions? If yes, what would you suggest could be done to improve them, and why?

Notwithstanding our comments to question one, we would like to provide the following feedback on the proposed questions:

1 What is the total amount of liquid assets that you control or have unrestricted access to?

- No comment.

2 What are your average monthly cash needs arising from fixed costs

- For many smaller firms, this figure may not change drastically from quarter to quarter. To reduce the admin burden on firms, we suggest this information is provided by firms in the first submission, with the figure pre-populated in the subsequent return. Firms should be asked to confirm whether this figure has changed since the last report (if yes, firms should be able to update the figure).

3 What is your net profit OR loss in the last quarter?

- No comment.

4 What was your revenue in the last financial year*?

- Requesting this information knowing that the figure will remain unchanged for four consecutive returns seems odd, given the FCA’s aim to reduce the admin burden on firms.
- Furthermore, the FCA collects data from firms on revenue from regulated activities at the start of each year, to calculate regulatory fees. Whilst this is not as broad as asking firms for their

total revenue, we feel it is disproportionate to ask mortgage intermediary firms to provide this information quarterly as part of the FIN073 return.

- We therefore query the value of this data via the FIN073 return and feel this question should be removed.
- If the FCA can provide evidence and a compelling case for why keeping mortgage intermediary firms in scope would be beneficial and proportionate, we would at the very least request that firms provide this information in the first quarterly return with the figure pre-populated in subsequent returns (based on the original figure submitted). After the fourth quarterly submission, the field can 're-set' to allow the firm to input the updated revenue amount. This will help to streamline the process.

5 Please report your net asset or liability position at the end of the last (calendar) quarter

- No comment.

Q3: Do you have any specific comments on our proposed guidance notes? If yes, what would you suggest could be done to improve them, and why?

No comments.

Q4: Do you agree with the proposed frequency of FIN073? If not, please explain.

We feel the quarterly submission of data is a disproportionate requirement for mortgage intermediary firms, as per our feedback to question one.

However, notwithstanding our earlier comments, the proposal for returns to be provided in March, June, September and December is welcomed as it means the data is synced with a firm's RMAR return. This is helpful for firms as previously under the ad-hoc survey they had to request multiple sets of data from their accountant to reflect the different reporting periods.

We do not feel 20 business days is a sufficient timeframe, as many firms rely on external accountants to gather the data requested. We feel the FCA should give firms 30 business days to submit the data, as this will be aligned with the RMAR submission timeframe.

Q5: Do you agree with our cost benefit analysis and conclusion? If you do not, please provide us with an explanation, including any estimated costs or benefits that may be relevant.

On the whole, the cost benefit analysis feels reasonably accurate. In larger firms, finance teams are likely to track most of the datapoints already. However, smaller DA firms without these resources are likely to see a greater impact.

We feel the FCA may have overestimated one-off training costs (£4,629 for a large firm and around £1,658 for a medium firm). We feel the assumption that training will take two days for each affected employee is excessive and one day per employee is more accurate. This is because employees impacted by the changes are likely to have been involved in the ad-hoc financial resilience survey and therefore training will be based on the changes that have been made by the FCA and the subsequent changes required within the firm to support a regular submission.