Association of Mortgage Intermediaries' response to Mortgage Rule Review: First steps to simplify our rules and increase flexibility CP 25/11

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

We request our views within this section are considered alongside our answers to the consultation questions.

AMI is supportive of making mortgages quicker, faster and easier but not to the detriment of consumers - we believe there is a risk of poor consumer outcomes due to these proposals. The FCA cites that 97% of mortgages are advised. If we break this down further, mortgages advised through intermediaries is circa 87%[1]. We understand the aim of the FCA's proposals is to ensure customers that do not want or need advice are not channelled into it unnecessarily. In our view, consumers accessing advice through intermediaries have made a conscious decision to do so but risk being captured by the proposals in a way that we do not believe has been fully considered. We explore this further in the main part of our response.

In addition, it is important for the FCA to consider that a mortgage is likely one of the biggest financial transactions a consumer will commit to during their lifetime. When layered with the FCA's Financial Lives findings (2024) which demonstrate: low levels of confidence when dealing with finances (59% of adults); low knowledge of financial matters (36% of adults) and a prevalence of vulnerable characteristics (nearly 1 in 2 adults), the importance and need for advice becomes clear. We do not feel the FCA has demonstrated a balanced view on the

[1] https://www.imla.org.uk/news/post.php?s=2024-12-23-imla-predicts-healthy-lending-growth-for-2025-greater-intermediary-business-and-more-remortgaging

role of advice within the consultation paper and have included suggestions in the main part of our response on ways the FCA can develop its positioning.

We feel the change in rhetoric from the [FCA's 2019 Mortgages Market Study (MMS) Report](), which fully acknowledges the major role intermediaries play in helping consumers navigate the mortgage market, is concerning. The MMS report also highlighted that improving consumer access to intermediaries was seen as a key success measure for a healthy and competitive mortgage market. We are unsure of what has changed since this paper was published, as the current proposals risk creating an environment that the MMS wanted to address.

The FCA notes the below in the CP:

''Pre-MMR, 'non-advised' mortgage sales using scripted questions, but with no assessment of appropriateness, accounted for a third of all sales. This led to confusion and poor-quality sales. Combined with poor underwriting practices at the time, this led to poor outcomes for many households.''[2]

The proposals within the CP contradict the outcomes that the MMR sought to address. Therefore, the positioning of these proposals could potentially undo the work and progress made since the MMR.

We believe there has not been enough consideration of the wider impact the removal of the advice interaction trigger will have, and we feel this will have an impact on consumer outcomes. By removing the advice interaction trigger, we are concerned it will open the doors for lenders to drive execution only (EO) transactions which will be driven further by the introduction of AI and advanced technology systems.

It is apparent the FCA sees these proposals as minor changes, hence the short consultation period. However, we are disappointed with the short consultation period for the removal of the advice interaction trigger, as we feel this will have an impact on consumer outcomes. A consultation on a complaints return was recently published with an eight-week consultation period – compared to four weeks provided for this consultation. The complaints return is much less significant than the proposals contained within this consultation.

We are supportive of the proposals regarding the MAA amendments and the retiring of the guidance.

The risk of a short consultation period is that the FCA may not receive a full spectrum of feedback. We therefore feel it would be appropriate to pause elements of this consultation, specifically the removal of the advice interaction trigger, for consideration as part of the wider June discussion paper.

We are aware the June discussion paper will focus on, amongst other areas, risk appetite, product innovation and consumer information needs, which are all key components of these proposals, and advice overall. Therefore these topics need to be discussed and considered holistically. We can only assume that such a limited period of consultation increases the likelihood for the need for further review in the future.

[2] CP25/11: Mortgage Rule Review: First steps to simplify our rules and increase flexibility

We are hopeful the industry can work with the FCA to achieve a balance between acting to boost homeownership (alongside the government's objective to create 1.5 million new homes within the next five years[3]) and ensuring appropriate consumer protection.

To summarise our main points:

- We feel the FCA has overlooked the role of mortgage intermediaries. It is important for the FCA to distinguish between advice provided by a lender and advice provided by an intermediary. The FCA states its overarching concern/premise is that some consumers get diverted to advice when they may not want or need it. This may be true for consumers that go to a lender directly wanting an EO route, but a consumer using an adviser has made a conscious decision to do so. The current proposals risk the unintended consequence of restricting access to intermediary-led advice.
- There can be a lack of transparency when a customer uses an aggregator to access a lender. The rate and product could potentially change throughout the journey and, if customers using the EO route do not fully understand the product features, details and journey process, it likely will end in poor outcomes.
- We are of the view that the value of advice has been overlooked. We have highlighted throughout our response the value advice brings to the mortgage industry, especially intermediary advice that drives competition, growth, innovation and the right consumer outcomes.
- We are concerned about the blurring of advised/non-advised, from a consumer perspective. We have concerns that guidance in MCOB and PERG around what constitutes advice is not sufficient in a Consumer Duty landscape, as the current rules focus on actions of the firm (inputs) rather than consumer understanding (outcomes). We have included suggestions in our response as to how this could be strengthened.
- There is a concern regarding the impact the removal of the advice interaction trigger will have on vulnerable customers under Consumer Duty. We believe that by removing the advice trigger, vulnerabilities are more likely to go undisclosed and unsupported, even further than they currently are[4]. The role of the adviser is vital in identifying vulnerable characteristics and supporting vulnerable customers throughout their journey.
- We are supportive of the proposals to allow lenders greater flexibility on affordability assessments when reducing the term and on remortgaging (as per the scope outlined in the consultation paper), however we feel the impact on consumers will be low.
  We are concerned that if a consumer seeks to reduce the term without obtaining advice, there is a risk that other areas of their finances will be overlooked, such as protection. We have included alternative suggestions in our response.
- It is important for the FCA to understand there is a cost to not taking advice, which may erode any perceived initial cost 'saving' for consumers. A mortgage is one of the biggest financial decisions made in a consumer's life. The cost of getting it wrong could be significant, difficult to unwind and impact other financial decisions.
- We feel the proposal within this CP creates a divergence of thinking that results in different and incohesive conclusions than we have seen across other FCA work and research pieces, such as the pure protection market study, and the Financial Lives Survey.
- The FCA has used product transfer data from a period between 2021-2024. This period will likely have higher product transfer rates as it was not 'normal' market

[3] https://www.gov.uk/government/news/our-plan-to-build-more-homes
[4] https://www.fca.org.uk/news/press-releases/vulnerable-customers-encouraged-open-firms-get-right-support

conditions. It is important to consider the market at this time was affected due to several factors such as COVID, the Truss mini budget and overall cost of living concerns. Extreme government intervention happened during this period via the Mortgage Charter and Mortgage payment holidays. We can see from recent data that the upward trend in product transfers is coming to an end. There were 1.35 million product transfers in 2024, which is 9% below 2023's figure. There was also an increase in remortgages to 36% of the value of product transfers compared to 34% in 2023[5].

- The Cost Benefit Analysis relies on using potentially outdated information, leading to unrealistic figures for both consumer and lender savings.

We welcome the opportunity to discuss our response with yourselves and answer any questions you may have.

Questions

Question 1: Do you agree with our proposed changes to MCOB to remove the interaction trigger?

We feel the FCA has overlooked the role of mortgage intermediaries and the value of advice. It is important for the FCA to distinguish between advice provided by a lender and advice provided by an intermediary.

The FCA states its overarching concern/premise is that some consumers get diverted to advice when they may not want or need it. This may be true for consumers that go to a lender directly looking for guidance, but a consumer using an adviser has made a conscious decision to do so. The current proposals risk the unintended consequence of restricting access to intermediary-led advice.

Role of advice

The FCA has failed to recognise the role of advice. An adviser will ultimately base their advice on the most suitable option for a customer's circumstances, as well as aiming for the best outcome. If customers are encouraged to go directly to lenders, without advice, there is a greater chance of a customer not receiving the most suitable outcome.

The intermediary adviser role is often to 'hold the customer's hand' from application to completion and, dependent on the firm's proposition, beyond this, particularly in terms of protection needs. It is widely commented that the adviser acts in a wider capacity, providing emotional support and guidance throughout the transaction to ensure customers are fully informed.

It is important to note that any intermediary advised customers that entered into a product transfer, ended with that outcome due to an adviser completing their research and concluding it was the most suitable option for them. However, if the customer chooses to forego advice, there is no tool to help measure whether a product transfer is the most suitable and most competitive option for that customer.

Ultimately, everyone deserves advice – however, if the EO-only proposal were to be implemented, we would be of the view that they would have to satisfy certain requirements before they would be able to proceed without advice. We believe that the FCA should be

[5] https://www.imla.org.uk/perch/resources/publications/imla-market-briefing-march-2025.pdf

able to specify the types of business, or customers, that would be appropriate for EO sales. All business not covered under this specification, would therefore require advice.

Some will argue that putting all consumers through an advice process will unduly lengthen the process for many. However, when we have compared lender based non-advised processes, there is little different in the complexity from an advised interview. The detail required to make a mortgage application or satisfy an existing lender under current criteria, when completing any application today, is very similar.

Consumers choosing the 'cheapest' product can mean an unsuitable or less suitable product is chosen. As an example, having 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.

In addition to customers choosing the cheapest product, there needs to be consideration to the alignment of the intended target market for certain products. The FCA stated within the 2019 Mortgage Market Study:

''There is no easy way for consumers to identify, at an early stage, those products for which they qualify. This hampers their ability to find the best deal[6].''

If customers were to proceed with a transaction via an EO route, they could potentially not be informed of their ineligibility until after they have paid non-refundable booking fees. This could affect the whole transaction and potentially any property transaction chains they are a party to; a collapse of any property transaction could cost customers significantly. In order to ensure a lender does not cause foreseeable harm, there would be an onus on them to be transparent at a very early stage of their product and underwriting criteria.

Most intermediaries use sourcing systems to aid their recommendation. These systems are a research tool and complement intermediaries' all-round knowledge of lenders' product and underwriting criteria. They also provide access to information on intermediary-only lenders, and products which may not be available to consumers via an EO/online journey.

Whilst sourcing systems are excellent tools, they are only part of the advisor armoury, as advisers will challenge the assumptions made by consumers to ensure they get the right product. Through wider conversation, advisers are able to collate soft facts about their customer, such as potential career changes, family expansion and overall life goals. Sourcing aids are an invaluable tool in the adviser toolkit, however, it is down to the adviser to utiltise these, and all the information provided by the customer, to ensure the best outcome possible. The FCA's current proposals risk opening the door for aggregators that only utilise limited sourcing tools not representative of the wider market.

[6] https://www.fca.org.uk/publication/market-studies/ms16-2-3-final-report.pdf

We have concerns that an increase in consumers buying a mortgage through an EO route could increase levels of inertia. For example, a customer in 2022 purchases a house and obtains a mortgage via a mortgage intermediary. In 2025, at the end of the fixed term, they then decide to select a product transfer directly with their lender. The customer does not realise this may not be the most competitive option and stays with the same lender until the end of the mortgage term, which could be decades later.

In AMI's view, without a strong intermediated market, the 'loyalty penalties' seen in sectors where most consumers buy direct or via price comparison websites (e.g. General Insurance) could start to creep into the mortgage market. This is an example of wider, unintended consequences that we encourage the FCA to consider.

In the consultation paper, it is reiterated that one of the main aims of simplification is to make the process 'cheaper' for customers – it is almost guaranteed not to be cheaper for customers if execution only sales are encouraged, as the wider market products will not be considered.

Not only this, but some mortgage intermediaries will, as defined in their service proposition, offer to review rates on behalf of a customer up until a defined point before completion. This is another example of a mortgage adviser's added value. Most lenders will not offer this service and, as a result, the consumer could be worse off financially even after factoring in any 'perceived monetary gains' from forgoing advice.

We feel it is helpful to support our points through real life examples:

Consumer financially impacted by going EO

One of AMI's member's customers had initially gone direct to their lender six months before their maturity date, as their lender was a signatory of the Mortgage Charter[7]. The customer came to their broker approximately two months before maturity to query whether there were any cheaper rates available as, they were not satisfied with the options provided by their lender.

The broker completed their research, and the same lender had decreased their rates considerably but not notified the customer of the reduced rates. The broker arranged for the customer to switch to the lowest rate available shortly before maturity, and saved the customer approximately £120 a month. If the customer had not received this advice, they would have been £1,440 worse off each year.

We also wanted to highlight that the FCA consultation states: 'While competition among brokers is generally thought to be high, previous FCA research has found evidence that intermediaries' preference for familiar lenders could lead to consumers missing out on cheaper alternative mortgage products'. This concern has been addressed through introduction of the cheapest rule via MCOB 4.4A.1R(1A) and MCOB 4.7A.23AR in July 2020.

Missing Customer Vulnerabilities / Vulnerabilities not being disclosed

Recently the FCA released its Financial Lives Survey, which found *'One in four (24%) adults has low financial resilience – meaning that they have missed payments, are struggling to keep up with commitments, or don't have savings to help them through an emergency (no different from May 2022).* [8]*'*

These findings need to be considered alongside these proposals, particularly as financial resilience figures have not improved since 2022. In our view, consumers are more likely to

[7] https://assets.publishing.service.gov.uk/media/6601af7865ca2fa78e7da80e/Mortgage_Charter__1_.pdf
[8] Financial Lives 2024: Key findings from the FCA's Financial Lives May 2024 survey

discuss poor credit or other issues with their adviser, as they may feel that, if these issues were discussed with lenders, it could negatively impact their mortgage application and any underwriting. This is supported by FCA research on customers with vulnerable characteristics, which shows 23% of UK adults would not disclose their personal circumstances as they are worried they may get a worse deal.

We feel that, due to the nature of the relationship between a customer and intermediary adviser (compared to a lender which is likely to be more transactional, particularly if on an EO basis), an intermediary adviser can help guide the customer as to why disclosing their needs may be beneficial. Furthermore, research shows consumers are more satisfied with mortgage brokers than lenders, which may be linked to a mortgage broker's ability to build rapport and trust:

''*Consumers' top five providers for satisfaction in 2024 were contents insurance providers (mean score of 8.4 out of 10), mortgage brokers (8.3) […] Looking at changes between 2022 and 2024, again providers within the insurance and retail lending sectors saw the most notable declines […] mortgage lenders from 8.2 to 7.9*[9]*''*

Advisers can provide objective advice without presenting any bias, as well as considering the whole picture. When a customer goes direct to a lender, the process is more transactional. This is displayed in the data collated in the Financial Lives Survey regarding satisfaction with lenders. Mortgage lenders had 39% of the survey participants score them between 9-10 for satisfaction, whereas mortgage brokers had 54% of the survey respondents score between 9-10 for satisfaction[10] –a significant difference between the two.

Consumers being able to have such open conversations is vital to identifying vulnerabilities, particularly under Consumer Duty. It is arguable that removing the advice interaction trigger could result in an increase in undisclosed vulnerabilities, resulting in poorer outcomes for consumers.

In May, the FCA published a CP with the aim of simplifying the complaints reporting process. One of the proposals for the new reporting process is to include more specific reporting categories concerning complaints involving Vulnerable Customers. The CP states:

''The information we capture around complaints closed, upheld and redress will now include the following to help us monitor how firms are managing complaints-handling for customers with characteristics of vulnerability:

• Complaints Opened by Consumer identified as Vulnerable.

• Complaints Closed by Consumer identified as Vulnerable.

Introducing this will help us better understand outcomes for customers with characteristics of vulnerability so we can ensure they have appropriate protection. It ought not to create additional firm burden.[11]*''*

However, with the removal of the advice trigger, the data collected in this return is likely to be artificially decreased. Advisers play an integral role in disclosures of customer vulnerabilities and the necessity for providing additional supporting accommodations for customers.

[9] Financial Lives 2024: Key findings from the FCA's Financial Lives May 2024 survey
[10] Financial Lives 2024: Key findings from the FCA's Financial Lives May 2024 survey
[11] CP25/13: Improving the complaints reporting process

The FCA's own data shows just 4 in 10 vulnerable customers have disclosed their needs to their financial services provider. There are several reasons as to why customers do not feel comfortable disclosing vulnerabilities, which we feel advice can help address[12]:

''Customers in vulnerable circumstances reported different reasons for not disclosing personal situations, including:

Embarrassed (37%).

Don't want to be treated differently (24%).

Worried may get a worse deal (23%).

Didn't know my firm would help (19%).

I have security concerns (16%).''

Impact on wider financial needs

We feel the acknowledgment of the protection gap by the FCA in its Protection Market Study Terms of Reference[13] does not align with the proposed removal of the advice interaction trigger. If customers are going to be encouraged to approach lenders directly, it does not provide opportunities for advisers to bridge the protection gap. The advice process allows multiple opportunities for advisers to have important conversations surrounding protecting the customer's income and mortgage.

AMI's Protection Viewpoint Research in 2023 found that mortgages were the top trigger for protection purchases by consumers[14]. If advisers are not able to discuss this with clients in full, the repercussions could be significant.

Currently the mortgage arrears data stands at 1%, which is historically low. We feel there is a correlation between the low level of arrears and 97% of mortgages being advised. When advice is removed, customers are not able to correctly plan for their future, may make uninformed decisions, or misunderstand the features of products, and may not have sufficient financial protections in place that could create breathing space and make arrears and repossessions less likely.

The FCA's Financial Lives findings[15] (2024) demonstrate this, with 59% of adults having low levels of confidence when dealing with finances and 36% of adults having low knowledge of financial matters.

If conversations regarding protection are limited further, it is arguable consumers could become less financially resilient, unaware of the different protection products available and how these products provide different types of financial support. We know that ownership of income protection, a product viewed by many as the foundation of financial planning, is low (circa 6%[16] - FCA Financial Lives 2024 figures), and advisers can drive awareness of different products through protection conversations connected to a mortgage.

---

[12] https://www.fca.org.uk/news/press-releases/vulnerable-customers-encouraged-open-firms-get-right-support

[13] https://www.fca.org.uk/publication/market-studies/ms24-1-2.pdf

[14] https://www.a-m-i.org.uk/wp-content/uploads/2023/11/AMI-Protection-Viewpoint-2023-The-Perception-Gap.pdf

[15] https://www.fca.org.uk/publication/financial-lives/financial-lives-survey-2024-key-findings.pdf

[16] https://www.fca.org.uk/publication/financial-lives/financial-lives-survey-2024-key-findings.pdf

Risk of blurring advised vs non-advised

AMI has the view that the current MCOB and PERG rules do not go far enough to ensure good outcomes as required under Consumer Duty. We feel that it is not enough to ask firms to consider Consumer Duty requirements, and this needs to be reflected in relevant FCA rules and its positioning.

We feel it is important to support our points through real life examples:

Customers can find it hard to distinguish between guidance and advice

A customer engaged with their lender as their buy-to-let product was maturing. The customer was sent a product guide showing c. 50 products available to them as part of a product transfer. The product guide and supplementary information was sent by a member of staff with a job title of 'adviser'. The details documented for each product were the LTV, initial interest rate, revert rate, product fee and the APRC rate.

When liaising with an intermediary adviser (an AMI member), the customer believed they had received advice directly from the lender. However, all that had been provided by the lender was product information.

Even under the current rules, this example highlights the client perception of 'advice' when discussing their mortgage with a lender. There needs to be an awareness of the role titles of employees who are providing product information or guidance to these customers. From our example, you can see how the lines between advised and non-advised can easily blur and, with the removal of the advice trigger, this will likely become a common reoccurrence.

Additionally, once the AMI member reviewed the product that the client had decided to proceed with, they concluded the customer had chosen the wrong product to suit their needs and future plans. Even with complicit consent from the customer that they are embarking on an execution-only sale, it is likely they do not understand the ramifications of doing so, particularly given the FCA financial lives findings.

This could lead to an increase in customer complaints stating that the customer was not treated in accordance with Consumer Duty and accommodated as they should have been. Ultimately, a sharp increase in complaints will have an impact on firms, lenders and customers.

Firstly, parties will be impacted financially due to case fees. This will take important resources from other areas of businesses and have negative impacts throughout. Secondly, we have concerns this will open doors for CMC exploitation. We have already witnessed the detrimental effects CMCs can have on firms due to their high-volume submission strategies and poor case organisation.

The FCA cites that most sales allow a 7-day reflection period for customers to consider their position after they have received a mortgage offer (MCOB 6A.3.4R). We feel this is a narrow view, as the actual consumer harm may not be apparent until years after taking out a mortgage. A mortgage adviser's role is to help the customer assess their options, taking into account future plans. Without advice during the transaction, or the ability to make an informed decision as to whether to take advice, it is likely that harm to the customer could be significant. As Consumer Duty states, firms have a duty to 'not cause any foreseeable harm' – these proposals are risking just that.

A highly advised mortgage market drives good consumer outcomes

In March 2022, the Bank of England published a research paper[17] challenging the idea that the main value of intermediaries derives from individual cost savings, explaining that, 'while mortgages obtained from brokers are cheaper, borrowers who use intermediaries pay more once commissions are factored in.' It goes on to state that this extra expense is not in vain however, as the report concludes that the real value of intermediaries comes from the fact that use of an intermediary is estimated to reduce 'welfare losses' derived from 'search frictions' by an average of 70%. In this consultation paper we feel the FCA has focussed on perceived initial cost savings for consumers but has overlooked the wider cost savings that going through advice can achieve.

We wanted to highlight what we feel are key findings from the Bank of England research:

- Intermediaries serve to exert 'negative pressure[18]' on lender market power, boosting competitiveness for the benefit of all consumers, not just those who use an intermediary. The researchers estimate that 'compared to a world where broker advice is unavailable, […] a strong intermediary presence in the market reduces average monthly mortgage costs by 21%.
- The Bank of England report from 2022 states that 'in the absence of brokers, [lender] firms would enjoy significantly higher monopoly power, and consumers would have to spend more on search[19].'

Furthermore, having an intermediary involved in the process helps mitigate any potential financial crime through their own due diligence and MLR obligations. It is arguable that having a less advised mortgage market could lead to an increase in financial crime, especially in terms of fraudulent mortgage applications.

The Role of Consumer Duty

A core component of Consumer Duty is an outcomes-based approach, with cross cutting rules that place emphasis on the mortgage adviser role in avoiding causing foreseeable harm, and enabling consumers to pursue their objectives. Consumer Duty encourages a wider, joined-up approach which these proposals seemingly undermine.

Furthermore, we wanted to highlight that the Consumer Duty cross cutting rule was incorrectly quoted in the consultation paper. One example of this is section 3.14:

'We propose to introduce a rule to require that firms must consider whether processes are appropriate to identify execution-only customers for whom advice, or other customer support, may be necessary to avoid foreseeable harm as part of meeting its obligations under the Consumer Duty[20]'

We are supportive of this proposal; however, it is important that the missing word 'causing' is added in, to ensure it mirrors the rule in PRIN 2A. The word 'causing' is important, as this is what will ensure that firms think about their role in ensuring consumer understanding of what EO entails, such as protections missed out on by

---

[17] https://www.bankofengland.co.uk/working-paper/2022/value-of-information-search-and-competition-in-the-uk-mortgage-market
[18] https://www.bankofengland.co.uk/working-paper/2022/value-of-information-search-and-competition-in-the-uk-mortgage-market
[19] https://www.bankofengland.co.uk/working-paper/2022/value-of-information-search-and-competition-in-the-uk-mortgage-market
[20] CP25/11: Mortgage Rule Review: First steps to simplify our rules and increase flexibility

not taking advice, exploring all available options and making sure the customer is getting the correct product for their desires and needs.

Without 'causing' being included in the FCA rules and/or guidance, it could open the doors for interpretation and inconsistency. By putting the onus on firms to not 'cause' foreseeable harm, it ensures accountability for their actions.

Question 2: Do you agree with our proposals to amend the circumstances where firms would be required to ensure consumers have made a positive election to use an execution-only channel?

In our view, execution-only channels should not be encouraged.

If the proposals were to be implemented, there needs to be explicit, confirmed consent that the customer understands the ramifications of making a decision without taking advice. They will need to be informed that they will likely not be have any successful complaints acknowledged by their lender and will not be able to go to FOS, in these circumstances, as they would be liable for any repercussions as a result of their choices. If this proposal was to be implemented, there would need to be wider and in-depth disclosure to ensure consumer understanding, in-line with Consumer Duty requirements. Consumers would need to be informed of their loss of rights and protections in selecting an execution-only route.

This could be in the format of a factsheet detailing that they would not be able to complain about the product chosen not aligning with their future needs, and that they would not be able to utilise the consumer protections provided by FOS. It would also be prudent to reflect this in PERG or other regulation, like the verbal disclosure rules[21] in ICOBS 4.2, to make sure consumers are made aware of this information throughout the journey, rather than just in a paper format.

Question 3: Is there anything else you think we should consider for this proposal (mortgage advice and interactive dialogue)?

For EO sales, we encourage the FCA to consider the approach taken within home insurance renewal letters, with transparent wording which should make consumers aware that other, potentially better, options may be available to them.
For example: ***'You may be able to get the mortgage you want at a better price if you shop around'.*** We feel this will help avoid an increase in levels of inertia.

Question 4: Do you agree that the requirement for a full affordability assessment when reducing the term of a mortgage should be removed [with affordability being assessed in line with a firm's obligations under the Consumer Duty and its responsible lending policy]?

AMI is supportive of the proposal, however we believe the reach and customer impact to be limited. As previously stated, there needs to be consideration for not causing foreseeable harm to any customers by negating a full affordability assessment.

We understand more consumers are borrowing into later life and post-retirement, where affordability could be impacted. It is important to recognise that terms are being extended into retirement, due to customer affordability constraints with shorter terms.

[21] https://www.handbook.fca.org.uk/handbook/ICOB/4/2.html?date=2005-01-14

It has been discussed that, although there will be greater flexibility granted to lenders when assessing remortgages, it raises the question as to whether a lender is likely to remove the affordability assessment completely. It is a tool regularly used to fulfil their own compliance needs and is also their reassurance of responsible lending.

With limited information being available to consumers to allow them to make an informed decision, our concern is centred around consumers making amendments to their contractual repayments which could become unaffordable in the future. Customers will need to be made explicitly aware that this reduction in term will result in higher contractual monthly repayments. This heightens potential risks, especially in regards to arrears and customer credit implications.

In order to comply, lender resource will need to be utilised, which will only increase their cost to serve and could indirectly increase product cost to borrowers. Recommendations need to be considered around the ability to revert back to the original term with no further checks if a consumer found themselves in this position. This also raises a concern around protection reviews and the lack of adviser involvement.

If the mortgage term was to be reduced, and monthly payment increased, a review of the customer's protection needs would be essential, especially to ensure that any protection policies in place still cover the revised payment i.e. income protection limits. Without an adviser notifying them of the need for review, this may not be addressed.

There is also a question of liability when making these applications. If a customer completes a term reduction during a mortgage application without the use of an affordability assessment, and then misses or defaults payments at a later stage, the liability would sit with the lender. It's likely that it would cause customers to complain about the ease with which they entered into a higher mortgage payment that, if missed or defaulted, could have serious consequences. It would be important to note that there must be a boundary set for liability, and the adviser would not be liable for any amendments the client and lender make between themselves after completion.

Our concerns are focused on the potential for customers to make uninformed decisions with an outcome of increased arrears, and we believe the same objective can be met by implementing other positive customer nudges in instances where the potential for causing foreseeable harm is negligible (see below, in answer to question 5, for our suggestions).

Question 5: What further regulatory changes could support borrowers to reduce their term when appropriate?

The role of the adviser and the service they provide plays an integral part in supporting this objective. On product maturity, advisers will not just review and make a future product recommendation, but will assess their customers' current income and expenditure to discuss protection needs and overpayment opportunities and/or reduction in the original term.

Having the opportunity to have these conversations is vital to ensure that customers who are temporarily benefitting from having extra income are utilising overpayment facilities, rather than making a contractual change; ultimately avoiding any potential life events that may impact disposable income and cause financial difficulty.

A potential solution, rather than removing the affordability assessment, is to 'mandate' that lenders provide consumer information on overpayment options/processes at regular intervals; for example, when customers are approaching product maturity or within annual mortgage statements. An example of an overpayment communication:

‘Your mortgage product allows for 10% of your mortgage balance to be overpaid every year, without incurring an early repayment charge.

You can do this either by paying lump sums or by increasing your regular monthly direct debit.

If you were to increase your monthly mortgage payment by £50 each month, this would reduce your balance by XX and could reduce your term by XX amount of years.

In order to pay a lump sum or change your direct debit, the steps are as follows:

(Lenders would need to channel this through all of their available platforms and media formats)

It would be important to use an illustrative figure that is realistic. For example, by keeping the example figure used for the increase in monthly payments under £100, it is arguable this could result in more uptake from customers that are able to make regular overpayments. This is where consumer research may be helpful to understand behaviours and attitudes.

Question 6: To what degree could unaffordable term reductions increase as a result of the proposed approach? Are further mitigants required?

No comment.

Question 7: Is there anything else you think we should consider for this proposal (amending affordability assessments when reducing a mortgage term)?

Please see our answer to questions 4 and 5.

Question 8: Do you agree with developing an alternate, more flexible approach to affordability assessments for remortgaging activity?

Yes, we do agree there needs to be a more flexible approach to make remortgaging more accessible, please see the answer to question 9 regarding this specific proposal.

Question 9: Do you agree with our proposal to extend the use of the MAA in this way?

We agree with proposals to extend lender use of the MAA.

In the consultation, the FCA notes concern around the potential for increased complaints from consumers because of the ‘lighter’ affordability assessment being implemented. The FCA proposes that lenders should clearly state, and confirm to customers, that a full assessment has not taken place and that this would mitigate the complaint from being upheld in the consumer’s favour. We disagree with the FCA proposal, as we do not feel this would be enough to mitigate potential increases in complaint levels.

Whilst it *is* arguable that this would mitigate the complaint from being upheld, it does not prevent the complaint from being made. Reporting and the costs of dealing with such complaints also need to be considered.

This raises further concerns on the lender’s capacity to note and track any potential vulnerabilities, financial issues and any other mitigating circumstances, as well as ensure they are getting to the right outcome for the customer. If any of the previous issues are flagged during the process, the broker and lender would need to start the process again by reverting to the full affordability assessment, to ensure they are covering all bases. However, a further caveat to this is that the application could now be unaffordable as a result of the finances being looked at in further detail, which will absolutely lead to higher complaint levels. This would mean more fees from brokers, lenders and higher caseloads for FOS.

The FCA does state, as with the current MAA, it will be down to the lender to ascertain whether this will be appropriate in line with their own risk appetite. The paper confirms the lender has discretion to do so, and also to use credit checks to supplement their decision whether to use the MAA or not. However, it does not mean that customers will understand any changes in the lending decision. Not only this, it could waste unnecessary resources going back to the start of the application process with requests for more detailed information. This is likely to impact broker workloads as well as customer dissatisfaction.

Question 10: What evidence (if any) would the new lender need from the customer or their existing lender to confirm the MAA and new product can be made available to the customer?

No comment.

Question 11: What barriers may lenders or consumers face in making use of the proposed approach? How might they be overcome?

Since the MAA would be down to the lender to assess, it could be difficult for consumers to understand if they then had to complete another, more in depth, affordability assessment if they do not fit the criteria for the MAA. It would be down to the lender to ensure clear communication over what the MAA criteria is, and whether the consumer fits the criteria for the assessment. There is a potential concern that it may cause some disparity between lenders, depending on the number of lenders that decide to implement the use of the widened MAA.

We believe that having advice from a broker during these types of applications will be vital to consumer understanding. As previously stated, the broker guides the customer throughout their transaction to completion. It would be their role to ensure consumer understanding. We believe that if customers were to do this via EO channels, it could be confusing and potentially misleading. The customer would be given the MAA affordability to complete, have it assessed by an underwriter and, if the underwriter was unhappy with the assessment alongside any relevant credit checks, the client would need to complete the standard affordability assessment. This could potentially cause delays and frustration to all parties within the transaction.

Question 12: Is there anything else we should consider for this proposal (amending MAAs when remortgaging)?

Please see our answer to questions to 9 and 11.

Question 13: What further regulatory changes, if any, could support simpler remortgaging?

We are supportive of simplification but not at the expense of advice, and it is important to note that the advice stage of the remortgage process is not where we believe work needs to be undertaken. An area of focus would be simplification of the conveyancing requirements for remortgaging; currently a slow process, hampered by lenders utilising large in-house conveyancing free legal proposition. We have seen lenders utilitising indemnity policies and simplified processes, and it would be beneficial if these areas are considered and explored.

We believe it is the post-offer-to-completion timeline that is the point of friction, not the application process itself. Work is being undertaken to digitise the home buying and selling process, and there is opportunity to replicate this across the remortgage conveyancing process.

Question 14: Do you agree with our proposal to retire FG13/7?

We are supportive of the proposal to include a new MCOB rule to replace non-handbook guidance, which should help to ensure lenders fulfil their obligations to their IO customers whilst remaining transparent about what will be required of the customer at the end of the mortgage term.

Question 15: Do you agree with our proposal to retire FG24/2?

Yes. It makes sense that this piece of guidance would be covered under Consumer Duty and the accommodations made for vulnerable customers.

Question 16: Are there any equality and diversity issues that may arise from the proposals?

Advice is key to educating consumers about the mortgage process, and guiding them throughout the journey. Removing the advice interaction trigger could have an impact on the knowledge of consumers regarding the mortgage process and their mortgage products.

It is noted that lenders will have to provide sufficient information in order for customers to make certain decisions, however, a broker's role in this part of the process is vital for customer understanding. If customers are from a poorer socio-economic background, it is possible they will not have any family members that own their own property or have their own mortgage, therefore being able to access advice is vital.

Data from the Social Mobility Commission[22] reveals a strong correlation between parental homeownership and the likelihood of owning a home. Between 2016 and 2020, 71% of individuals whose parents were homeowners also owned their own home, compared to only 46% of those whose parents were not homeowners. This suggests that intergenerational wealth plays a significant role in facilitating access to the property ladder, and could play a significant role in consumer understanding of the house buying and selling process.

Question 17: Do you agree that given the permissive nature of the proposed changes, if adopted, an implementation period would not be necessary?

From an adviser perspective, it would not be down to us to comment on, as it is likely to have more of an effect on lenders and their policies and processes.

However, we would like to re-iterate that the FCA focus ought to be on ensuring a varied and comprehensive consultation period, which this four-week response timeframe does not achieve.

Question 18: Do you have any comments on the Cost Benefit Analysis in Annex 2?

The FCA has estimated a saving for lenders of circa £95 million. In our view, this number seems inflated, and we are unsure how this was calculated. It is also important to note that whilst lenders may save £95 million, it is unlikely to be reinvested into the business in ways where consumers would see the benefit.

Furthermore, the paper states a figure for consumer cost savings of a potential £21 million. We would like to gain an understanding of how this figure has been ascertained, as we do not feel the savings will be as high as predicted. Consumers may save on broker fees,

[22] https://social-mobility.data.gov.uk/mobility_outcomes/housing/absolute_housing_mobility/latest

however the overall 'cost' of not having advice could be higher. Please refer to our response for examples.

<u>The impact on competition</u>

There have been long-standing conversations around the value of the procuration fees that lenders pay to brokers on completion of a client's mortgage. Firstly, the cost benefit analysis figure of a potential saving of c. £95 million in procuration fee savings for lenders is a huge sum.

If lenders are going to potentially save this amount in procuration fees, it does give rise to the question of where these funds will be reinvested. It's arguable that the customer will not see the benefits of these savings. Furthermore, the potential impact this will have on brokers and firms is something that needs to be considered. They could potentially lose a significant amount of income when procuration fees are already lower than they could be.

Without procuration fees, both customers and brokers will suffer in the long term. It is likely customer service standards will be negatively impacted, due to a lack of resources available for training and reinvestment.

Not only this, it is possible that the whole sector would suffer. Without the steady income from the vast amount of brokers and firms, there would be little room for growth and innovation within the market. In 2022, the FCA issued a Strategic Review of Retail Banking Business Models which stated the below:

'In our view the increased use of mortgage brokers has contributed to increased price competition and lower numbers of consumers on SVRs. Consumers' use of mortgage brokers (excluding internal product transfers) has increased from 63% of new mortgage product sales in 2015 to 73% in 2020. Brokers typically offer a range of mortgages to consumers and receive commission from lenders for successful completions. This is reflected in our 2020 FCA Financial Lives Survey where 81% of consumers, that have used a broker in the last 3 years, agreed when asked if the broker had helped them consider wider options in the marketplace.'[23]

The intermediary market provides variation within the marketplace, as well as more customer choice of mortgage products and lenders. The UK mortgage industry has one of the highest number of lenders, that can service a multitude of clients with different circumstances. For example, smaller lenders who can service customers that are credit impaired, or innovative lenders with a 100 percent LTV product to help first time buyers get onto the property ladder. Without the business coming from brokers for lenders like these, it's likely these products would not be available, and these customers would suffer as a result. It raises the concern of the big lenders having monopoly in the mortgage market. It would also negatively impact innovation, competition and growth – something the FCA repeatedly states they are striving towards increasing.

[23] Strategic Review of Retail Banking Business Models: Final Report 2022