

The chain of Consultation and Discussion Papers and the latest Feedback Statement from the FSA all have a heavy emphasis on improving the controls when giving advice, dealing with arrears by the people running businesses and seeing customers.

The Feedback Statement (FS10/1) publishes the responses made on the wide range of topics covered in the original Mortgage Market Review but stops there. The conclusions and decisions the FSA will reach on these matters will have to wait even though the FSA places a high priority on these issues. Expect Consultation Papers as follows:-

- income verification and affordability assessments, Q3
- non-deposit taking lenders and product regulation (lending thresholds and prohibiting loans with multiple high-risk characteristics) Q4
- distribution (selling standards, intermediary affordability assessments and professionalism) Q4
- disclosure. Q4

If you haven't attended a speed reading course yet, do! These are likely to be substantial and, of course, followed by Policy Statements and then, of course, the rules.

Back to FS10/1, most proposals for change seemed to be broadly accepted. The proposals fell into three main areas:

- Product issues
- Advice issues
- Controls over people

On the product issues there remains a deep seated desire to keep options open on LTV/LTI/DTI restrictions. The idea of setting restrictions across the board rather than applying individual lending decisions based on the exact circumstances of individuals was felt to be disadvantageous to the public and, as the analysis carried out by the FSA into the cause of the problems showed, there is not direct correlation between defaults and loans in this category.

Strict application of income verification standards was mixed but the two strongest opposing arguments came from the consumer bodies who argued in favour and the lenders who argued against on the grounds of cost and the fear that this will prompt an increase in fraudulent documentation. There was also a feeling that this would be overkill where straightforward, low risk mortgage lending decisions were concerned. Given the overwhelming response that lenders should be responsible for verifying income it seems likely that this will be the case but there will need to be consensus on who does what otherwise there will be considerable duplication.

There were a range of responses on the topic of read over of the RDR in relation to charging structures, reward for advisers and qualifications. On the whole responses were against simply stamping the mortgage market with the RDR approach on the basis that the nature of the transaction is quite different and the causes of mis-selling are not the same root cause as the rationale for the RDR approach in the investment sector. We can expect to see read over in terms of the labelling of the nature of the service that customers are receiving with the labels if "independent" and "restricted" provided that what those terms mean in the context of mortgage advice are clear. Intermediaries, in particular, were concerned that they can only advise on the mortgages which they can access.

As usual, while everyone agrees that the current IDD and KFI information is not used by consumers but did feel there was some benefit to them in having a record of what information was provided in case of any future dispute. The jury is out on what might be a better communications medium as it has been since these documents were introduced and on the whole no change was seen as the best option unless some proven advantage in an alternative can be found.

At this stage the changes that pose the biggest task and most profound change to the industry will come from the creation of the CF31 which will apply to all "individuals involved in the upfront sales process."

There seems to be little opposition to this initiative and given the number of cases of fraud that the FSA uncovered it would be difficult to argue against a move that should ensure that the people giving advice to the public are fit and proper.

On the face of it this could catch people involved in supporting sales but the FSA has made it clear that "those engaged in processing, underwriting or administration activities are not caught unless they are also involved in the sales process." The cost benefit analysis estimates that there are 20,000 advisers who will need to be approved for the first time.

It is also clear that this will apply where a new contract is involved. Changes to the structure of the mortgage and the repayment method would not be caught within this definition and it would appear that the word contract is that for a loan on a particular property. What changes the contract in the context is the change of the asset over which the mortgage is held.

The FSA has given the example of an adviser dealing with a customer, wishing to move house with a new mortgage contract being created as being advice that must be given by an Approved Person. Simply changing a repayment mortgage to interest only or switching products would not be caught.

There is a transitional period proposed on between 3 and 6 months depending upon whether the individual is already in situ and performing the role competently but is not currently approved to carry out another function and those who are starting from scratch. It seems likely that all applications will need to be in from the date that rules come into force and that the FSA will be trying to respond to those applications within 3 months.

The same principles will apply to the raft of new CF10 Compliance Oversight applicants.

The FSA has increased vigilance in reviewing applications and the evidence of:

- Honesty and Integrity
- Competence and capability
- Financial soundness

Firms will need to have robust standards to evidence that they have carried out a thorough vetting of individuals and that they have been properly assessed as competent in the role. This is no small task and my advice would be to start work on this process now. The consequences of failing to meet the deadlines will be the removal of the individual from carrying out the role.

Plenty to do in 2010 then!

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