Financial Services Consumer Panel
AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

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EU mortgage credit directive consultation
Banking and Credit Team
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

24 October 2014

Dear Sir/Madam

Implementation of the EU Mortgage Directive

This is the Financial Services Consumer Panel's response to the consultation paper on proposals to implement the EU Mortgage Directive.

The UK mortgage market has been subject to a great deal of change in the last couple of years with the introduction of the Mortgage Market Review, so we are pleased that these proposals are largely consistent with what has already been implemented and build on the existing regulatory architecture where it exists. We will also be responding to the forthcoming FCA consultation, which will highlight where new rules and guidance will need to be introduced in line with the new EU requirements.

The Panel recognises that, as there is no formal transitional period ahead of full implementation, there are challenges for firms in managing the shift to the new regime because of the relatively long sales process for mortgages. For that reason we support the Government's intention, as stated in the consultation, "to consider in more detail whether there are further steps it could take to smooth this process." A situation where consumers had to return to the beginning of the process, for example, because new rules had to be complied with would not serve anyone's interests.

The Panel supports the main elements of the proposals as set out in the Treasury consultation. There are two substantive issues on which we would like to respond:

1. **Second charge lending**

We support the transfer of second charge mortgage regulation to the first charge mortgage regime. It has always struck us as odd that second charge lending was previously regulated in the same way as other more generic credit products. Considering the second charge market has consistently suffered from a higher rate of repossessions than first charge mortgages, and this is an area where the FCA conduct regime for mortgages largely works well, we are pleased the two will now be broadly regulated in the same way. For consumers, certainly, it will be more straightforward.

Ideally we would like the transfer to happen more quickly, given there will be a 'regulatory gap' until March 2016 when the Directive will be fully implemented. We are concerned that the FCA will not be collecting performance or sales data on second charge mortgages until 2016, and are therefore worried about firms engaging in regulatory arbitrage during this period, in respect of firms' not treating customers fairly. We are, however, pleased that existing protections for second charge loans, such as Time Orders, will remain.

2. Buy-to-let

We believe that the Treasury is taking a proportionate approach to the regulation of buy-to-let products. The exemption on buy-to-let does not extend to all forms of the product, meaning some forms will now have to be regulated. We therefore welcome the additional protection that is proposed for homeowners who have found themselves landlords due to circumstances rather than choosing it as a business. The numbers affected by the anomalies are likely to be small so should not present either firms or consumers in these instances with any significant difficulties. A full and detailed impact assessment would help Treasury to be assured of the number of transactions which may fall within this new framework.

Sincerely,

Sue Lewis
Chair - Financial Services Consumer Panel