

Telephone: 020 7066 9346
Email: enquiries@fs-cp.org.uk

Pippa Lane
Financial Conduct Authority
12 Endeavour Square
London
E20 1JN

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By email: cp19-17@fca.org.uk

Dear Pippa,

CP19/17 Consultation on mortgage advice and selling standards

This is the Financial Services Consumer Panel's response to the FCA's consultation on mortgage advice and selling standards.

The Panel agrees that consumers must have the information and support they need to make informed choices about how they buy a mortgage, but that not all consumers require advice. It supports the FCA's proposals to enable firms to present options to consumers without giving regulated advice, and to make execution-only sales channels easier to use. In its response to the FCA's interim Mortgage Market Study¹, the Panel supported the greater use of innovative tools to help consumers find a suitable mortgage. However, it pointed out that consumers should have easy access to additional information or advice, as digital tools, no matter how well-designed, can have limitations and struggle to convey issues to do with eligibility, or the complex interplay between interest rates and fees. This response reaffirms these views.

The Panel also strongly supports the FCA's proposal to require advisers to take account of price when choosing between suitable mortgages and to require them to explain why they have not recommended a cheaper mortgage. This change will force intermediaries to justify their recommendation, helping to ensure consumers receive value for money and enabling them to better understand why advisers have recommended a mortgage product which is not the cheapest, and to challenge this if necessary. However, we recognize that what constitutes a cheaper mortgage can be quite a complex calculation, depending on detailed eligibility criteria, length of fix, reversion rate, future plans to move as well as interest rates and fees. Moreover, borrowers can be willing to pay a premium for some features such as a local branch network or a brand they particularly trust. The experience of borrowers whose mortgage has been sold has not been good, and borrowers might be willing to pay more for a mortgage from a lender they regard as more stable.

Our responses to the questions posed in the consultation paper are set out below.

¹ https://www.fs-cp.org.uk/sites/default/files/fs_cp_response_mortgage_ms_interim_report.docx__0.pdf

Q1: Do you agree with the proposed changes to our Perimeter Guidance to show that a tool allowing a consumer to search and filter based on objective factors is not necessarily giving advice?

Yes, we agree with the proposed changes. At present, it can be difficult for consumers to assess whether they would be better off switching their mortgage due to the range of product rates and fees which can be levied when re-mortgaging, let alone the potential impact of interest rate changes or changes in personal circumstances. Making it clear that the provision of such tools does not necessarily constitute advice should help to encourage the development and provision of tools to help consumers.

However, since digital tools may have limitations and struggle to take account of issues to do with eligibility, or the complex interplay between interest rates and fees, consumers should continue to have easy access to additional information or advice, if required. The online responses from the digital tools could helpfully form the starting point of the conversation with an intermediary.

Also, it is important for the FCA to consider the possible additional consequences of its proposed change. Advice provides an opportunity for a consumer to be encouraged to consider their financial circumstances in the round; and it is the one point where protection insurance is raised with consumers. The Panel's recent research² found that most holders of protection products had bought them at the suggestion of an intermediary, financial adviser or lender. It had not occurred to them to do so independently. If the FCA requirement for advice is diluted, it may mean that consumers don't buy protection insurance when it would be in their interests to do so. The Panel repeats the suggestion it made in its response to the interim Mortgage Market Study that the FCA should consider whether there are alternative prompts or ways to ensure that consumers consider the need for protection insurance when taking out an execution-only mortgage. One possibility would be for the need for protection to become part of the affordability assessment to prompt borrowers to consider how the mortgage would be paid in the event of redundancy or illness.

We are aware that some lenders are wary that a prompt to a borrower to consider protection might constitute advice, with the result that borrowers receive no protection prompt at all.

Q2: Do you agree that we should more closely align our Perimeter Guidance on mortgage advice with the Perimeter Guidance on advising on investments?

Yes, this is sensible.

Q3: Do you agree with the way we have characterised the types of tools that already exist or could be developed in the mortgage market?

The approach seems appropriate, though it will be important that as far as possible the FCA defines the tools in a way which adequately reflects future developments.

Q4: Do you agree that we should permit more interaction with customers before firms are required to give advice?

² https://www.fs-cp.org.uk/sites/default/files/bdifferent_protection_research_final.pdf

Q5: Do you agree with the examples of interactions that should not trigger the need to give advice?

We answer Questions 4 and 5 together. We agree that the FCA should permit more interaction with customers before firms are required to give advice, and that interactions that are wholly unconnected with regulated advice (e.g. dealing with technical queries about the online tool) should be excluded.

Q6: Do you agree that we should remove the prescriptive detail on firms' execution-only policies?

Yes, this is necessary to bring FCA requirements for execution-only into line with its treatment of advised sales.

Q7: Do you agree that we should give guidance to clarify that MCOB 4.8A.5R does not prevent a firm marketing their execution-only channel or pricing advised and execution-only sales differently?

Yes, this clarification would be helpful.

Q8: Do you agree that we should change the process for using the internal rate switch exception so the list need only be re-sent if new products are added or interest rates or fees change in a way likely to be material to the customer's decision?

Yes, this change in process appears appropriate. However, this will hinge on how the FCA and firms determine what is 'material' to the customer's decision. The Panel would welcome clarification from the FCA on what it would expect firms to view as a 'material' change.

Q9: Do you agree that in cases where the customer approaches their existing lender to ask whether they can match an offer from a competitor, the firm need only present the relevant product to use the internal switch exception?

Yes.

Q10: Do you agree that we should allow the execution-only disclosure to be given and recorded by audio or video?

Yes.

Q11: Do you agree that we should allow the disclosure and positive election to be in separate documents or recordings?

Yes. Making this change should allow the consumer journey to be improved, whilst the requirements remain.

Q12: Do you agree that we should require advisers, if they do not recommend the cheapest suitable mortgage, to explain why they have not recommended a cheaper mortgage?

Yes, we strongly agree with this proposal. The Panel suggested the FCA adopt this approach to protect consumers in its response to the FCA's Discussion Paper on Fair Pricing in Financial

Services where it advocated RU64-style policies³ so it is pleased to see the FCA proposing this to ensure consumers receive value for money and understand why advisers may recommend a mortgage product which is not the cheapest.

However, the cheapest mortgage may not be the most appropriate for the consumer since there are a whole range of other factors which can mean that an apparently more expensive mortgage product is more suitable. Borrowers can be willing to pay a premium for some features such as a local branch network or a brand they particularly trust. The experience of borrowers whose mortgage has been sold has not been good, and borrowers might be willing to pay more for a mortgage from a lender they regard as more stable.

Moreover, we also recognize that what constitutes a cheaper mortgage can be quite a complex calculation, depending on detailed eligibility criteria, length of fix, reversion rate, future plans to move as well as interest rates and fees. These criteria will vary from borrower to borrower, and will require individualized calculations rather than simply looking at the combination of interest rates and fees over a fixed period.

But where advisers recommend a product that is not the cheapest, it is entirely appropriate that advisers should explain in clear and simple language why they have not recommended a cheaper mortgage. The provision of this information will force intermediaries to justify their recommendation whilst also providing greater clarity for consumers, and better enabling them to challenge the adviser, where necessary. It will also help to mitigate the intrinsic potential conflict of interest involved in providers making payments to advisers.

Q13: Do you agree that we should make these minor amendments?

Yes.

Q14: Do you agree with our initial assessments of the impacts of our proposals on the protected groups? Are there any others we should consider?

Yes.

Yours sincerely,

Wanda Goldwag
Chair, Financial Services Consumer Panel

³ https://www.fs-cp.org.uk/sites/default/files/fscp_response_fair_pricing_in_financial_services_20190207.pdf