

FCA Factsheet

No. 005

Mortgage intermediaries, lenders and administrators

Mortgage Market Review: Removal of non-advised sales process, applying for 'Advising on' activities and qualifications

This factsheet is relevant to all firms involved in arranging mortgages and/or home finance.

Why is this important to you?

The new Mortgages and Home Finance Conduct of Business sourcebook (MCOB) rules, which come into force on 26 April 2014, will remove the non-advised sales process. After 26 April 2014, the rules will allow firms to conduct advised sales and, in limited circumstances, execution-only sales. This will affect the way firms sell home finance products and may require some firms to vary their Part 4A permission and/or consider whether their employees have appropriate qualifications.

Background

In October 2009, we published the Mortgage Market Review (MMR) Discussion Paper (DP09/3), which set out our broad concerns about the UK mortgage market and invited debate on a suggested package of reforms to address them.

In November 2010, we published a Consultation Paper on distribution and disclosure (CP10/28), focused on enhancing the mortgage sales process, the role of intermediaries and improving disclosure of information for customers.

Following formal feedback and extensive discussion with market participants, we consulted further on the entire package of MMR proposals in December 2011 in CP11/31, *Mortgage Market Review: Proposed package of reforms*.

PS12/16 summarises the feedback we received to CP11/31 and confirms our final rules.

Removal of the non-advised sales process

- Under the new rules firms will be unable to operate a 'non-advised' sales channel from 26 April 2014.
- Interactive sales (e.g. face-to-face and telephone) will most likely need to be advised.
- Vulnerable customers (equity release, sale and rent back, right-to-buy products, or where the main purpose of raising funds is to consolidate debt) must always be given advice.
- Firms do not have to give advice and can sell on an execution-only basis where:
 - it is a non-interactive sales process (e.g. a pure online sales process or by post) where it is not practical to give advice; or

- the customer is high net worth, a mortgage professional, or the loan is solely for business purposes; or
- the customer has rejected the advice given and wishes to proceed with a product of their own choice (this is not available for sale and rent back customers).
- Firms must always obtain the customer's consent to proceed on an execution-only basis and must notify them of the consequences of not receiving advice.
- Firms are not able to promote or encourage customers to reject their advice and proceed on an execution-only basis.

What do firms operating a non-advised sales process need to do?

Firms will need to review their business model. If a firm operates and wishes to continue operating an interactive sales process, it is likely the firm will need to provide advice to its customers. If a firm is looking to provide an advised sales process, it will need to consider:

- permissions – does the firm's Part 4A permission include the relevant regulated activities to provide advice, for example 'Advising on regulated mortgage contracts', 'Advising on home reversion plans', 'Advising on home purchase plans', 'Advising on sale and rent back agreements';
- qualifications – do staff have the appropriate qualifications and are they competent to provide advice;
- policies and procedures – does the firm need to develop policies and procedures to operate an advised sales process;
- systems – are the firm's systems adequate to offer an advised sales process; and
- controls – does the firm have appropriate controls to monitor an advised sales process.

What if my firm's Part 4A permission does not include any of the relevant advising activities and I want to provide advice?

A firm must be authorised by us to carry out a regulated activity. The firm will need to submit a Variation of Permission (VoP) application in the normal manner. Before we can provide authorisation to conduct the relevant activity or activities, the firm will need to demonstrate that it can meet our requirements.

Please be aware that we have six months to assess your application for authorisation if this is complete, with up to 12 months for an incomplete application. An application is complete when we have received all the information and evidence needed for us to make a decision.

Firms should apply as soon as they are able to meet our requirements (see below). Firms that apply late may have to stop doing mortgage business until a decision has been made on their application.

What if my firm's staff do not hold appropriate qualifications?

The Training and Competence rules (as amended by the MMR final rules) require all sellers (advised and execution-only), except those operating solely in the business loan market, to be assessed as competent, which requires them to hold an appropriate qualification. The qualification requirements have not changed under the MMR and individuals will be required to obtain CeMAP or a level 3 equivalent to provide advice.

Individuals will be allowed 30 months to attain an appropriate qualification. The time starts from when the individual starts to carry on the regulated activity. Individuals who do not hold an appropriate qualification will be able to provide advice under supervision during the 30-month period. Firms will therefore need to consider their spans of control, to ensure they have a suitable number of supervisors to oversee trainees.

Firms with only unqualified sellers, which are looking to submit a VoP application, will need to consider whether they are able to meet our requirements (current and post-MMR implementation) to provide advice, before they submit a VoP application.

What information should my firm provide to support my VoP application to add an 'Advising on' activity or activities?

The information we require to assess the application will vary depending on your firm and firm type. However, when submitting your application you should provide the relevant information in the table below.

Item	Lenders and administrators	Intermediaries
A description of how products will be sold from 26 April 2014 (post-MMR implementation) under the new advised and execution-only rules to include description of interactive and non-interactive sales channels, distribution model, sales incentives, expected percentage of advised/execution-only sales.	✓	
The number of advisers, including the: <ul style="list-style-type: none"> • number that are qualified; • number of trainees working towards qualification and competence; and • ratio of supervisors to trainees. 	✓	✓
Where fewer than 50% of advisers are qualified, the firm's Training and Competence arrangements, including: <ul style="list-style-type: none"> • the firm's training plan; and • timeline to get staff to qualified status. 	✓	✓
Firm to self-certify that it has revised its policies, procedures and compliance monitoring plan to reflect the addition of advised sales	✓	✓
Firm to self-certify that it has implemented all necessary changes to its IT systems and that they are fully tested and operational, or if not, the date when it is planned they will be completed.	✓	
If the firm intends to outsource its advice function, details of the outsourcing arrangements, including: <ul style="list-style-type: none"> • details of oversight responsibilities and arrangements, systems and controls for the outsourced functions relevant to providing advice to customers; and • copies of service level agreements and arrangements relevant to providing advice to customers. 	✓	

For more information on how to apply for a VoP, please visit our website:

<http://www.fca.org.uk/firms/being-regulated/variation-of-permission>