



In October 2012, after an 18 month consultancy period, the final rules for the Review of the Mortgage Market following the crash in 2008 were published. These new rules drew a line, as to who was responsible for what in terms of the borrowing process for clients. From this period, Lenders would be responsible for assessing total affordability for mortgages and Brokers/Retail Bank Staff would be responsible for the advice given to their clients. The industry was given until April 2014 to prepare and implement these new rules. The overall aim of the Mortgage Market Review (MMR) was to create a sustainable market place that would be flexible for its customers and have their best interests at its core.



Christine Newell Mortgages Technical Director

Key Action Points that firms should have taken because of MMR 2014

- Removed the Key Facts Logo and FCA statement from all Initial Disclosure Documents.
- Decide on whether your firm will continue to use an Initial Disclosure Document or Client agreement as this is no longer a regulatory requirement. However, verbal disclosure is still a requirement.
- If using a written disclosure document, the wording needs to be reviewed as using the terms 'Independent' or 'Restricted' is no longer necessary.
- Brokers must discuss which products they offer within their disclosure and whether they also advise on direct deals offered by some lenders.
- Brokers need to disclose clearly how they are remunerated for their services and if any of those fees are refundable to the client.
- Ensure that a further advance disclosure is written into your IDD or client agreement when advising a client on a re-mortgage or the client is looking to borrow further money.
- Any trainee mortgage advisers need 100% supervision until they are sufficiently qualified and signed off as competent.
- Firms need to consider how much "Execution Only" business will be written and this needs to be communicated to the FCA via the RMAR reporting process.
- Firms need to have an Execution only policy for all staff to read and acknowledge.
- Update fact find to ensure that the client acknowledges and understands about rolling up fees and charges onto a mortgage loan.
- Ensure the client positively elects to roll up any charges and fees, so any tick box options should have been removed.
- Firms should have a written Vulnerable Client policy for all staff to read and acknowledge that they understand the process elected to use by the firm.
- Ensure documentation is kept for 3 years.
- Firms need to consider the appropriateness of the advice given and the MMR detailed 9 factors as a benchmark.

What is Execution Only?

Firms should have an Execution Only policy for their business. Execution Only is allowed where there is no spoken or interactive dialogue with the client. Clients must elect to proceed on an execution only basis and this needs to be clearly documented by the adviser. High Net Worth clients, loans purely for business purposes and Clients who are considered Mortgage Professionals can opt for Execution Only. These clients need to meet the appropriate FCA definitions. Clients can also reject advice and proceed on an execution only basis. In these circumstances, the reasons, actions and preferred option of the client need to be clearly documented. Product switches and contract variations can proceed on an execution only basis where there is no additional borrowing or where the material change to the contract does not affect affordability. Again, this needs to be documented on the client file. Vulnerable Clients must receive advice in the first instance but then could reject this advice and elect to proceed on an execution only basis.

What is a Vulnerable Client?

Firms must have a Vulnerable Client policy for their business. This policy should recognise who the firm classes as a Vulnerable Client and how these clients should be treated in terms of advice and process. For example, a firm could say that any client classed as vulnerable should be offered the option of having another member of their family or a nominated person present at any interview. The policy

should reflect the FCA principles of business 6&7 which are the Customer Best Interest rules and Communications with clients. Vulnerable Clients could be any of the following categories of clients; elderly, unemployed, mentally incapacitated, debt consolidation clients, suffering addictions e.g. gambling, bereaved and Right to Buy clients.

9 factors to consider when assessing appropriateness of advice

1. Whether the customer's requirements appear to be within the lender's known eligibility criteria for the regulated mortgage contract.
2. Whether it is appropriate for the customer to have an interest-only mortgage, a repayment mortgage or a combination of the two.
3. Whether it is appropriate for the customer to take out a regulated mortgage contract for a particular term.
4. Whether it is appropriate for the customer to have stability in the amount of required payments, especially having regard to the impact on the customer of significant interest rate changes in the future.
5. Whether it is appropriate for customer to have their payments minimised at the outset.
6. Whether it is appropriate for the customer to make early repayments.
7. Whether it is appropriate for the customer to have any other features of a regulated mortgage contract.
8. Whether the regulated mortgage contract is appropriate, based on the information provided by the customer as to his credit history.
9. Whether it is appropriate for the customer to pay any fees or charges in relation to the regulated mortgage contract up front, rather than adding them to the sum advanced.

Compliance Support

Paradigm has unrivalled expertise in providing compliance services to a broad range of firms. We understand the difficulties facing firms in finding the time to understand the mortgage compliance minefield and how it can affect your business.

Paradigm's experienced team has a wide and varied knowledge of mortgage compliance that enables us to provide comprehensive guidance. We deliver bespoke, practical guidance and work closely with the firm to implement compliance processes, procedures and advise

on changes that may be required. We can assist firms in the delivery of their Training & Competence Scheme, undertaking KPI reviews, 1-2-1 meeting completion as well as the preparation of Training Needs Analysis and CPD records reviews. We also provide a library of supporting documentation and work with firms to develop documentation that will enable firms to meet their ever-increasing regulatory burdens.

Please contact us to discuss the compliance packages available to you firm further.