Lenders and Intermediaries – a Governance Framework;

A Statement of Shared Principles by the Intermediary Mortgage Lenders Association (IMLA) and the Association of Mortgage Intermediaries (AMI)

Introduction

This document sets out a framework for the governance of lender/intermediary relationships which has been agreed between the Intermediary Mortgage Lenders Association (IMLA) and the Association of Mortgage Intermediaries (AMI). It focusses on the principles which should drive the governance processes used by lenders in relation to their intermediary partners.

Both IMLA and AMI accept it is not a binding document but rather a statement of good practice derived from what is currently done within the industry. Each lender (and broker) will differ in detail but what is set out here is a generalised framework within which agreements can be forged.

Context

Since 2007 the industry has been engaged in extensive re-configuring. With new mortgage rules now a reality on the back of the MMR, lenders and intermediaries have been forging new and better relationships built around securing the better customer outcomes required.

In the new era lenders have full responsibility for delivering the correct loan to each customer. Intermediaries play a central part in that process as it is they who give advice on the selection of loans based on a detailed understanding of both the customer and his/her needs and the range of loan products on offer. Lenders vary in detail in terms of the information they require about potential borrowers and in the extent to which they delegate responsibility for aspects of the process to the intermediary, e.g., the scope of data collection on the customer's credit history.

Both lenders and intermediaries have been discussing how to achieve better quality in what they individually and collectively do. Achieving better quality across the spectrum of requirements and processes involved including information gathering, advice and recommendations, credit assessment and loan offers and approvals will be key to securing good outcomes. Good outcomes mean satisfied customers and sustainable loans, all crucial to thriving and profitable businesses.

The events of recent years exposed poor quality lending which had led to defaults and losses. In a minority of cases some loans were a consequence of fraudulent activity. This impacted on both lenders and intermediaries – lenders with poorly performing loans on their books and all the costs of managing through that process and intermediaries where such loans had been introduced and advised on where reputations had been damaged and business flows reduced. Lenders responded to this with tighter requirements and with much closer management of their intermediary partners. Some lenders reduced their panels considerably on the back of detailed performance metrics.

This background has led to a renewed focus on how to ensure that the quality of lending is improved overall. This is partly about better products and knowledge of them, better advice and better information but it is also about better processes with less unnecessary duplication of effort, more accuracy, greater transparency and better communication between lenders and intermediaries.

In working through these issues individual lenders then recognised the strengths and weaknesses of their approach to managing relationships with their intermediary partners – leading some lenders to rework and formalise their arrangements. This then triggered a debate on these issues at IMLA's Executive Committee meetings which led in turn to the creation of a small working party which drew together an advice note on managing lender-intermediary relationships.

At the same time as a result of some brokers being removed from panels, AMI had also commenced discussions internally on how to address concerns on fairness. With both trade bodies becoming aware of each other's work it was decided that IMLA and AMI would work to produce joint guidance which can then be issued to members and the industry as a whole.

Aims and objectives

The broad aim of the document is to set out an agreed set of principles that can guide lender/intermediary relationships. As will be evident from the details below, there are some complex and challenging issues and not least in relation to fraud. However both organisations agreed the statement would help frame how individual firms dealt with these issues – thus allowing lenders and intermediaries to focus on delivering high quality lending and good consumer outcomes.

Both IMLA and AMI members are keen to ensure that governance processes are fair, transparent and subject to the appropriate right of appeal.

The objectives of any system should be to;

- Track intermediary performance across a range of variables in both absolute and relative terms.
- Give intermediaries warnings if their conduct/behaviour/performance is deemed inappropriate/inadequate.
- Allow lenders to remove intermediaries from panel (for quality or conduct/behaviour/performance reasons).
- Have an appeals process that allows an intermediary to be considered for re-instatement.
- Provide comfort to the FCA that intermediary panels are being assessed and managed appropriately and that the risks of fraud are being minimised.

Current good practice

Lenders vary in how they handle their intermediary operations. Some lenders have Intermediary Panel Management Groups with representation from across the organisation (e.g., Risk, Compliance, Fraud, Sales and Service). Such groups may meet regularly to go through specific data on broker firms that have been highlighted due to their poor case submission performance. The lender, perhaps through regional sales teams, will then work with these firms over a relatively short timeframe to encourage and monitor their improvement. If no improvement is made this would result in either temporary suspension from the panel or termination.

Some lenders have also developed structured termination processes, with a right of appeal, which is reviewed by the wider corporate interests rather than just intermediary sales team. Some lenders have an Intermediary Appeals Committee chaired by an 'independent' executive manager, and have representation from Risk, Service & Sales divisions etc. This ensures that there is a governance process for intermediary appeals and a full audit trail to support any appeal and subsequent re-instatement. Either way lenders seek to make the intermediary and/or their principal aware of their reasoning and decisions.

Given the discussions across the industry IMLA and AMI members would note the following;

- Lenders must have the right to choose who they do business with. Clubs, networks and individual Intermediaries are able to do the same.
- In practice most lenders, whilst having differing governance processes, will operate within structured principles around this and not least with respect to the intent to be as fair and transparent as possible.
- As far as possible lenders will advise intermediaries of the quality measures they apply, give guidance on expected behaviours and not least on those performance measures which might lead to disciplinary action.
- At the present time and with no broker registration system in place there is no appetite for a standardised appeals process across firms. However there is widespread agreement there should normally be an appeals process in each lender system and that this should be open and transparent.
- Lenders should not routinely remove an intermediary from a panel based purely on information from another lender unless they have evidence from applications they have received that supports such removal. An exception to this might be their being advised of a criminal conviction. Lenders may also remove a broker from a panel following information from their club or network.

This shared set of principles is designed to inform all lenders and intermediaries of what is considered good practice and allow firms to test their procedures and processes against this. It is not binding on firms but based on a desire to assist in our collective and continued efforts to build strong and effective partnerships. This puts a premium on good communication and the sharing of information.

Lenders would be expected to keep an open dialogue with intermediaries and intermediaries, clubs and networks should do the same with lenders. This is a shared responsibility.

Fraud

Inevitably the discussion between members and organisations raised the issue of fraud and how this impacted upon the governance process. It was important to separate out the general principles and guidance from the specific issue of fraud because that can give undue focus on issues around confidentiality and the need for action rather than consultation.

It is clear lenders must have mechanisms for dealing with lending applications where there is fraud/suspected fraud. This is clearly an area which can lead to dispute and controversy because of the limited information lenders can supply to intermediaries and not least in advance of removal.

Lenders are however committed to provide reasons subject to legal and regulatory constraints. Clearly where it is clear a positive fraud case has emerged and even where police are not pursuing the perpetrator, it would not be surprising if other lenders removed that intermediary from their panel. This puts a premium on establishing the facts as quickly as possible. It also highlights the fine line between what some might see as gaming the system and fraud. In the event of a loan default and the true facts being uncovered such gaming would be seen as fraud.

In summary evidence or suspicions of fraud may override the principles and guidance set out here. It will raise tensions and it is important for lenders and brokers to have a shared understanding of how the lender will deal with such cases.

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