**FCA Call for Input – Open Finance**

**Response by the Intermediary Mortgage Lenders Association**

**March 2020**

## IMLA

IMLA is the representative trade body for mortgage lenders who lend wholly or predominantly through intermediaries. Our 41 members include banks, building societies and specialist lenders, including 17 of the top 20 UK mortgage lenders responsible for almost £244bn of annual lending. IMLA provides a unique, democratic forum where intermediary lenders can work together with industry, regulators and government on initiatives to support a stable and inclusive mortgage market. We welcome this opportunity to comment on the FCA's Call for Input on Open Finance.

We have four main concerns about the way in which Open Finance might develop and the impact which it might have on the mortgage market:

- First, extensive use of AI and technology could lead to far greater direct access by customers to mortgage products. The mortgage market is currently highly intermediated, with an emphasis on advised sales – and with good reason. It is highly competitive, with a large range of products and options available. Many prospective and existing borrowers both value and benefit from the professional advice which they receive from a qualified adviser. The regulator has also previously strongly endorsed the provision of advice: in 2012 the FSA stated that*: Our overall approach will require firms to give advice to all … customers purchasing a mortgage through an interactive sales channel*." (Para 99 page 64 of PS 12/16). The Mortgages Market study subsequently challenged this approach, stating that *"we believe that some consumers are being channelled unnecessarily into advice"* (para 1.23 of MS 16-2-3 – Final Report) but also acknowledged that the FCA "*do not want to restrict access to advice for those consumers who can benefit from it."* Given the current high levels of advice given to mortgage customers, we would urge caution in facilitating a rapid and wide-scale move away from advice as this could lead to customer detriment - and the need for further regulatory intervention.

- Second, it is likely that the lower costs of providing a direct on-line channel to customers would be reflected in lower prices. Whilst this might appear to be beneficial to customers, some might be attracted predominantly on price, whereas an alternative, though possibly slightly more expensive, product might offer more flexibility and therefore be more suitable. This is where professional advice is key in ensuring that customers buy products which best meet their circumstances and requirements. The development of dual pricing could prove detrimental to some customers – and would also disadvantage those who might be confident about being able to select a suitable product but not easily able to access on-line channels.

- Third, similar to the previous point, customers might be unduly influenced by cost when choosing their preferred channel for obtaining a new mortgages. Making the wrong choice could lead to poor outcomes in terms of the product eventually selected.

- Fourth, much is promised by technology providers - but there is less clarity about what happens when things go wrong. If a system fails or is attacked by cyber-criminals, or confidentiality is breached, there must be swift and effective action to shut down affected systems and replace them as quickly as possible with adequate alternatives. The common standards referred to in a number of the questions posed must take into account the need for transparent lines of accountability and liability for mitigating risk, but also identifying and dealing with it when problems arise. The fact that so much of the technology is likely to be provided by third parties who provide the services which will link lenders, intermediaries and consumers will only increase the potential for risk, breaches of security and system failures.

Answers to the specific questions raised are set out below.

**Q1: What action can we take to help ensure the potential of open banking is maximised, for instance to support the development of new open banking services?**

The fact that the technology exists to enable open banking does not necessarily mean that it will prove attractive to consumers: some are likely to be cautious about sharing data unless they can be confident that it will be handled securely and appropriately. The FCA will have an important role in creating the regulatory expectations and oversight that gives consumers confidence.

**Q2: We are interested in your views on what open banking teaches us about the potential development of open finance.**

The relatively low take-up to date underlines our response to Q1: as consumers become more confident that they can use open banking and open finance securely, and more aware of the advantages of doing so, they are more likely to participate.

**Q3: Do you agree with our definition of open finance?**

The definition is clear: the circumstances and scenarios underlying it are, however, potentially very complex.

**Q4: Do you agree with our assessment of the potential benefits of open finance? Are there others?**

There may indeed be benefits to customers but it may take some time for those customers to become familiar and confident with the new technology. Para 3.11 raises an interesting question: how would firms be able to identify – and contact - new customers, with whom they had no previous relationship, without being in breach of data protection rules?

**Q5: What can we do to maximise these benefits (given the considerations set out in paragraphs 3.12 to 3.17)?**

**Q6: Is there a natural sequence by which open finance would or should develop by sector?**

It's very difficult to say at this stage which sector is likely to lead the way on this: it seems likely to be customer-led, with certain products being more suited to the style of information presentation and analysis which open finance offers. Customer outcomes may also be a key driver: if consumers become aware that significant benefits – be that in terms of financial savings or ease of transactions – are to be gained, then developments are likely to become more popular more quickly.

**Q7: Do you agree with our assessment of the potential risks arising from open finance? Are there others?**

Yes: there is a danger that those who do not trust or understand open finance may find themselves left out – and at risk of losing out on more advantageous deals. For those who do opt in – the risk of data being misused may be high and it will be essential to ensure that systems are designed in such a way that data security is not compromised as a result of user ignorance. Similarly, some customers may opt for open finance in the belief that a quicker service is going to be best for them: they may therefore make poor decisions because they value speed over advice and a more considered approach.

**Q8: Do you consider that the current regulatory framework would be adequate to capture these risks?**

Given the potential implications for risk if things were to go wrong, there may well be arguments for TPPs to be subject to FCA regulation.

**Q9: What barriers do established firms face in providing access to customer data and what barriers do TPPs face in accessing that data today?**

There may be a considerable challenge in developing common standards: without this, it may be difficult for some firms to access data from other sources.

**Q10: Do you think the right incentives exist for open finance to develop, or would FCA rules, or any other changes be necessary?**

As suggested in our response to Q9, the question of how to develop common standards may be critical: the FCA's intervention in brokering common industry standards could be helpful if not essential.

**Q11: Do you have views on the feasibility of different types of firms opening up access to customer data to third parties?**

Firms might have to take business decisions based on the sector(s) of the market which they serve and the willingness of their customers to engage with open finance. Even if all firms eventually move in the direction of open finance, it seems inevitable that they will do so at different speeds.

**Q12: What costs would be involved in doing so? We are interested in views on the desirability and feasibility of developing APIs?**

No comment.

**Q13: Do you have views on how the market may develop if some but not all firms opened up to third party access?**

We would be concerned if the costs of developing APIs were to prove detrimental to smaller and specialist lenders – as this could in turn have a detrimental impact on customer choice.

**Q14: What functions and common standards are needed to support open finance? How should they be delivered?**

**Q15: What role could BEIS' Smart Data Function best play to ensure interoperability and cohesion?**

**Q16: To what extent should the standards and infrastructure developed by the OBIE be leveraged to support open finance?**

The driving factor should be that functions and standards should be designed with the customer in mind: just because something can be done does not mean that it should be done – unless it demonstrably makes a process easier to understand, quicker and cheaper.

**Q17: Do you agree that GDPR alone may not provide a sufficient framework for the development of open finance?**

**Q18: If so, what other rights and protections are needed? Is the open banking framework the right starting point?**

**Q19: What are the specific ethical issues we need to consider as part of open finance?**

As suggested in our response to Qs 9 and 10, the development of common standards may be critical to the overall successful development of open finance. With that in mind, there may be merit in the advisory group's recommendation that standards be produced around giving and withdrawing consent. Without such standards and clear understanding, customers could become very confused, make poor decisions and have little confidence in how to put things right.

**Q20: Do you have views on whether the draft principles for open finance will achieve our aim of an effective and interoperable ecosystem?**

**Q21: How should these set of principles be developed? Do you have views on the role the FCA should play?**

**Q22: Do you have views on whether any elements of the FCA's regulatory framework may constrain the development of open finance? Please provide specific examples.**

If open finance is to take off in a significant manner it seems most likely that it will be customer and market-led. The FCA's role should be to ensure that all market developments are fully compliant with existing data protection and other regulations, and that firms keep customer interests at the heart of their planning. There may well be areas where the FCA can help to smooth the development of new processes, by facilitating and guiding the development of common industry standards which aid customer understanding and protection whilst enabling firms to make best use of new technology.