Direct line: 0131 301 2052
Email: andrew.kay@fca.org.uk

FCA FINANCIAL CONDUCT AUTHORITY

Quayside House
127 Fountainbridge
Edinburgh
EH3 9QG

Tel: +44 (0)131 301 2000
www.fca.org.uk

7 June 2021

Dear Board of Directors,

Mortgage Third Party Administrators

We are writing to:

- set out our view of the key risks Mortgage Third Party Administrator firms pose to their customers or the markets in which they operate, and
- outline our expectations of Mortgage Third Party Administrator firms, including how firms should be mitigating these key risks.

Our view of the key drivers of harm

We recognise that the increased coronavirus-related restrictions placed on many areas of the UK during 2020 led to heightened financial difficulty for some consumers, and that many will continue to live in financial uncertainty as the impact of coronavirus continues. However, the harm that they are exposed to remains largely the same:

1. **Customer Treatment**
   - Firms fail to recognise and address the needs and challenges facing vulnerable consumers and fail to ensure that they obtain the same fair outcomes as other consumers.
   - Consumers' needs are not adequately assessed which may result in consumers not receiving appropriate forbearance if facing financial difficulties
   - Consumers do not receive clear information about, or resolution to, their dispute/complaint, are incorrectly pursued for debts, and feel harassed or inconvenienced by repeatedly having to contact firms for answers.
2. **Operational Resilience**
   - Firms fail to have adequate systems and controls, processes and policies in place – and the appropriate governance and oversight - to mitigate the risk of operational events. These include systems failures that result in incorrect notifications or demands for payments being issued to customers causing distress/financial loss.

3. **Firms' Prudential Resources**
   - Liquid resources are critical for firms' survival and to help ensure that they meet their obligations as they fall due. Firms should monitor their financial health as part of appropriate systems and controls, e.g. through cash-flow forecasts, and maintain adequate financial resources at all times. The role of liquidity monitoring is more relevant given the strain COVID-19 has put on firms' financial resources, with a heightened risk of firm failure.
   - Failure to adequately manage resources may mean a firm fails to meet its obligations as they fall due leading to it exiting the market in a disorderly fashion. This could leave consumers without clear information about the status of their mortgage, including who to pay and when, thereby impacting their ability to pay back the debt effectively.

Our expectations and areas of focus

Our supervisory work is therefore prioritised to focus on the following:

Fair treatment of consumers

We expect firms to place sufficient emphasis on the fair treatment of consumers. This includes recognising and looking after vulnerable customers and mortgage prisoners; dealing with complaints fairly and providing extended forbearance where appropriate. We have previously issued guidance on understanding mortgage prisoners which may be helpful and can be found here.

We continue to see poor treatment of customers caused in large part by weak operational oversight, ineffective systems and controls and lack of meaningful management information.

Increasing consumer debt and poor treatment has the potential to increase the prevalence of consumer harm in this portfolio. We will act where we identify firms causing, or who we consider likely to cause, significant harm to consumers.

Vulnerable customers

We recently published our finalised guidance on the fair treatment of vulnerable customers. This guidance highlights the actions firms should take to understand the needs of vulnerable customers to make sure they are treated fairly. It also includes examples of how to put this into practice. Protecting vulnerable consumers is a key focus for us and is more important than ever due to the impact of coronavirus. Firms should embed the fair treatment of vulnerable consumers into their culture, policies and processes throughout the whole customer journey. We will monitor firms' compliance in this area and act where we find that vulnerable customers have not been treated fairly.

Operational resilience

Appropriate systems and controls and policies and procedures, together with adequate governance and oversight and a close and effective relationship between Third Party Administrator firms and the outsourcing entity they administer mortgages for, are key to ensuring firms operate within their regulatory remit and can demonstrate they are treating their consumers fairly. We are writing to firms that outsource their mortgage administration to remind them of their responsibilities and what they are accountable for.

Along with your outsourcing partners you should review arrangements in place to ensure that both firms effectively deliver on the above.

Financial Resilience

Firms prudentially regulated by the FCA play an important role in supporting the integrity of the UK financial system. The coronavirus pandemic underlines the need for all firms to have adequate resources in place.

You should familiarise yourself with Our framework: assessing adequate financial resources published in June 2020.

We use several data sources to monitor indicators of potential financial distress and any consequential risk of harm and will engage with firms where we consider regulatory obligations have been breached. This includes where we learn that firms are at risk of exhausting cash reserves or face liquidity challenges and may need to exit the market.

If your routine monitoring highlights any financial concerns you need to report these to us immediately.

Forbearance and due consideration

We expect consumers in default or arrears difficulties to be treated with forbearance and due consideration. This includes firms agreeing sustainable repayment arrangements, so that customers can meet their essential expenses and priority debts. It also includes signposting customers to free debt advice.

Firms should refer to our March publication Coronavirus linked forbearance: key findings.

Senior Managers and Certificate Regime (SM&CR)

The regime replaced the category of Approved Persons with that of senior managers and charges them with a range of new responsibilities.

As well as looking at senior managers, SM&CR also requires firms to identify individuals in the next tier down of management and those performing certain specific roles (certification functions). At least once a year, firms must evaluate and certify these named individuals' fitness for the roles they perform.

The deadline for completing this was 31 March 2021. You should have collected evidence to demonstrate that all certified staff are suitable to carry out their roles so you can issue their certificate. All other staff impacted by the conduct rules must have been trained in the rules as they apply to their roles. This information should have been uploaded to the Directory Persons on the new FCA Directory via Connect.

We are writing separately to all lenders who outsource administration to this sector to remind them of their own duties, responsibilities and accountability under the SM&CR.

Our Supervisory Strategy

On 24 April 2019, we published our revised Approach to Supervision which sets out the purpose of, and our approach to, supervising firms and individuals. This document builds on Our Mission, explaining how we supervise 60,000 firms serving retail and wholesale consumers.

All firms in the financial services industry are expected to conduct their activities in a way that treats customers fairly, provides clear communications to consumers, resolves disputes and complaints fairly, and that complies with FCA Principles and FCA Handbook rules and guidance. We expect you to reflect on the issues highlighted in this letter to challenge how your firm operates to minimise the consumer harm it may cause.

As part of our supervision of firms, we will engage with firms to discuss their business models, strategies, and cultures. Our work plan will also employ appropriate supervisory tools to test, and where necessary mitigate, the potential areas of harm. Where firms are not meeting our expectations, we will act (SUP 1A.3).

Regulatory reporting

Principle 11 includes a requirement for firms to disclose to the FCA anything relating to the firm of which the FCA would reasonably expect notice. We expect all firms in this portfolio to be aware of the requirements and guidance in SUP 15, and to submit notifications as required. This should be when an issue or event is identified, and firms should not wait until resolution to notify us. An example of where we expect to be notified is when a firm's business model is subject to change that would have a significant impact on the firm's risk profile, resources or consumers.

Contact

If you have any questions, please contact your normal supervisory contact on 0300 500 0597. This is the primary point of contact for your firm's interactions with the FCA. You can also email us at firm.queries@fca.org.uk. However, there may be times when your firm faces urgent issues of strategic importance. If this happens, please contact me on 0131 301 2052, or at andrew.kay@fca.org.uk. If I am not available, then please contact one of my managers, Graham Dorward, on 0131 301 2038 or at graham.dorward@fca.org.uk.

Yours faithfully,

Andrew Kay

Head of Department, Retail Lending 1, Supervision, Retail and Authorisations Division