



FCA AND PRA CHANGES TO MORTGAGE REPORTING REQUIREMENTS FCA: CP 18/41 / PRA: CP 30/18

RESPONSE BY THE FLA

Introduction

The Finance & Leasing Association (FLA) is the leading trade association for the UK consumer credit, motor finance and asset finance sectors. FLA member companies include banks, the finance subsidiaries of major manufacturers and independent finance firms. They offer credit services to customers from all social groups, via credit and store cards, personal loans, point of sale finance, motor finance and a number of other consumer credit products, as well as a wide range of leasing and hire purchase services to businesses of all sizes.

In 2018, FLA members provided £137 billion of new finance to UK businesses and households, £45.8 billion of which helped consumers and businesses buy new and used cars, including over 91% of private new car registrations. £104.2 billion was in the form of consumer credit, accounting for over a third of all new consumer credit written in the UK. £32.6 billion of finance was provided to businesses and the public sector to support investment in new equipment, representing over a third of UK investment in machinery, equipment and purchased software in the UK last year.

Overview

We welcome the opportunity to comment on the joint Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA) consultation paper on '*changes to mortgage reporting requirements*', as published in December 2018. We are also grateful to the FCA and PRA for hosting a session with the FLA and some of its members on 15 February 2019, where the proposals contained within this consultation paper were discussed.

- While there are likely to be benefits derived from changes / additions to the Mortgage Lending and Administration Return (MLAR) and Product Sales Data (PSD) reporting lines, the FCA and PRA (the '*Regulators*') need to ensure that these changes are proportionate, clear and are not onerous for firms operating in the second charge mortgage market.
- The FLA's members are broadly supportive of the proposals and welcome the Regulators' recognition of the need to address gaps in information that exist in current MLAR and PSD reporting.
- Where new definitions are created in the PRA Rulebook, equivalent definitions should also be created in the FCA Rulebook in order to maintain a consistent approach between the two sets of rules.
- While it may be common practice in the first charge mortgage market to offer '*Further Advances*', this categorisation might not be as applicable for a large part

of the second charge market as the previous agreement is usually redeemed in order to create a new second charge loan. In addition, some thought should be given to whether a 'remortgage' is the correct categorisation to be applied to a previously 'unencumbered' property, as this does not seem logical or accurate.

- The '[Frequently Asked Questions](#)' section on the FCA's '*Mortgage lending & administration data items*' page appear to be outdated, and should be updated to reflect the proposed changes. This might also be useful as a guide for some of the newer firms operating within the second charge mortgage market to map-out their regulatory reporting activities.
- Where changes to reporting systems are expected to occur, the Regulators should have regard to the impact that this will have on smaller firms operating in the mortgage market, particularly as these entities will have to bear the costs of implementing these changes.
- It is important that firms are kept updated on the progress of these reporting changes, particularly in relation to the potential changes to reporting systems and some of the other points that have been raised for further clarification within this response.

Responses to questions in CP 18/14 / CP 30/18

Product sales data: performance reports (PSD007)

1. *Do you agree with the FCA proposal to require mortgage administrators to submit PSD performance reports on mortgages owned by entities which are not authorised home finance lenders? If not, what amendments would you suggest?*

The proposals to require mortgage administrators to submit PSD performance reports appear to be sensible. However, further clarification is required on the extent to which this change extends to the second charge mortgage market.

In particular, it would be helpful if there were some guidance on whether this would apply to a second charge lender that is closed to new business and only administers its own 'back book' of mortgages. To illustrate this point, member firms are seeking clarification of the treatment of a firm that:

- **Is authorised by the FCA** on 21 March 2016 (as a result of the new regime for second charge mortgages);
- **Holds permissions to administer Regulated Mortgage Contracts (RMCs)** – where it administers its back book only;
- **Does not have permission to enter into RMCs** (as it did not apply for such permissions and so became a closed book); and
- **Is not currently required to submit a performance report** under PSD007.

Currently, [SUP 16 Annex 21R \(2\)\(c\)](#) (Specific Reporting Fields, Mortgages) in the FCA Handbook, contains the following extract:

“The following data reporting fields must be completed, where applicable for all relevant regulated mortgage contracts except any second charge regulated mortgage contract that is entered into before 1 April 2017 and any regulated mortgage contract which is a legacy CCA mortgage contract.”

In light of the extract above, it would be helpful if some guidance were provided as to whether the firm in the above scenario would be exempt from providing performance reports under PSD007.

Separately, a question was raised by a member firm in relation ‘closed books’, and whether these loans would be considered as ‘new loans’ if a lender decides to resume lending on that particular mortgage book. This is particularly an issue where securitisation is used for funding, as essentially these SPVs form a closed book. However, the lender can still purchase loans back in order to undertake further advances, transfer of charge transactions etc. Some guidance on this would also be welcome.

2. Do you agree with the FCA proposal to amend SUP 16.11.1R as per paragraph 2.7? If you do not agree with the proposal, what other amendments would you suggest?

The proposals to amend SUP 16.11.1R in order to align with MLAR reporting appear to be sensible.

3. Do you agree with the FCA proposal to add these fields to the PSD performance report? If not, what amendments would you suggest?

Yes – we are supportive of the additional fields that have been proposed for inclusion on the PSD report.

However, it would be helpful to have some further clarification on the following:

- **Unencumbered properties** – the proposals state that where a mortgage is taken on a previously unencumbered property, this should be reported as a ‘*remortgage*’. Members had raised this issue at the meeting with the Regulators in February, as this does not appear to be a logical approach. In particular, it was highlighted that an ‘*unencumbered*’ property is not subject to a previous mortgage so the term ‘*remortgage*’ may not align with how firms record these loans on their books.
- **Size of loans** – If details are to be included on the size of a loan, there needs to be some clarification for firms as to whether the figure will include all of the fees and charges associated with the loan.

- 4. Do you agree with the FCA proposal that mortgage administrators submit nil returns where they do not administer any relevant mortgages? If not, what amendments would you suggest?**

The proposal for mortgage administrators to submit nil returns in this scenario appear to be sensible.

Product sales data: sales reports (PSD001)

- 5. Do you agree with the FCA proposal to require mortgage lenders to submit PSD sales reports on internal product transfers? If not, what amendments would you suggest?**

Yes – we are broadly supportive of this.

Some members are of the view that, at this stage, they are unable to offer product switching in the way that the first charge sector does. This is primarily linked to the issue of timing, as firms in the second charge market have only worked under the MCOB regime since 2016. The feeling is that this might be the case for many other firms too.

- 6. Do you agree with the FCA proposals to add fields, drop-down options and guidance to the sales report to adapt for internal product transfer reporting? If not, what amendments would you suggest?**

It should be noted that some firms may be able to link an account back to the original transaction reference in the event of multiple product switches (as per the requirements on page 11 of 21 in Appendix 1 of the CP). However, some firms currently write further advances as new loans and so may not be in a position to link these accounts.

These firms might need to develop new functionality / put systems in place to link accounts in the event of product switches that occur in the future. This is likely to result in a cost to firms that will need to implement these changes. This may be a significant cost for some of the smaller firms, but may also lead to large costs for some of the larger firms depending on their operating models. However, there is unlikely to be a difference in cost when determining links between the first record and most recent records when new systems are in place.

- 7. Do you agree with the PRA proposal to require PRA-authorized mortgage lenders to submit sales reports on further advances? If not, what amendments would you suggest?**

Yes – we are supportive of this.

8. *Do you agree with the FCA proposal to require PRA-authorized firms that will be subject to the PRA requirement to submit sales reports on further advances, to do so via PSD? If not, what amendments would you suggest?*

Yes – we are supportive of this.

9. *Do you agree with the FCA proposal to require FCA-authorized mortgage lenders to submit PSD sales reports on further advances? If not, what amendments would you suggest?*

Yes – we are broadly supportive of this.

However, the use of ‘Further Advances’ in the second charge mortgage market appears to be less prevalent than in the first charge market. Some of our members have confirmed that these advances don’t exist in their product offering. That is to say that, in practice, when further funds are advanced to an existing borrower, a new second charge mortgage is written – with the existing account being redeemed. This has a major influence on the way that these firms complete their regulatory reporting.

The Regulators may want to keep this in mind when reviewing data on further advances from lenders and may want to seek publishing some additional guidance on this.

10. *Do you agree with the FCA proposals to amend drop-down options and guidance to the sales report to adapt for further advance reporting? If not, what amendments would you suggest?*

Yes – we are broadly supportive of this.

With reference to page 15 of Appendix 1 of the CP, it might be worth noting that when completing the ‘*Purpose of second charge regulated mortgage contract*’ field, firms are likely to only include one reference (rather than to note all that apply) to the major purpose of the loan.

11. *Do you agree with the PRA proposal to require PRA-authorized home finance lenders to submit the 3 additional fields outlined above? If not, what amendments would you suggest?*

Yes – we are supportive of this.

12. *Do you agree with the FCA proposal to require PRA-authorized mortgage lenders to submit the information required by the PRA in PSD sales reports? If not, what amendments would you suggest?*

Yes – we are broadly supportive of this. Firms being able to use existing reporting forms and systems to submit their data would, in theory, be less burdensome.

13. Do you agree with the FCA proposal to require FCA-authorized lenders to submit 3 more data fields in PSD sales reports? If not, what amendments would you suggest?

Yes – we are supportive of this.

Mortgage lending and administration return (MLAR)

14. Do you agree with the FCA proposal to require second charge administrators to report on the number and value of loans they administer? If not, what amendments would you suggest?

Yes – we are broadly supportive of this.

However, it would be helpful to have some further clarification on section 4.8 under Table 1 (reporting requirements example scenarios) on page 17 of the CP. One firm provided an example where its business model allows it to:

- 1) Originate second charge loans;
- 2) Fund the loan via a warehouse;
- 3) Securitize the loan; and then
- 4) Service the loan accounts.

Table 1 appears to reflect the business model above as it states that the “*Lender sells loan to buyer and still administers loan*” category. The firm in this instance is now part of a wider group structure and is intending to outsource its administration to a third party servicer who is also part of this group. On that basis the new business model allows it to:

- 1) Originate the second charge loan;
- 2) Fund the loan via a warehouse;
- 3) Securitize the loan; and then
- 4) Outsource the loan servicing to a regulated servicer.

In this scenario, and based on the wording in Table 1, it would appear that the responsibility for reporting regulatory activity under MLAR would still sit with this particular firm. This interpretation seems to be supported by page 7 of 21 in Appendix 1, where the ‘Principal administrator’ is defined as a firm which:

“(b) is authorised to undertake a mortgage administrator’s activity, and is exercising that activity on behalf of either a lender or other firm another person that is not itself authorised to undertake a mortgage administrator’s activity; or has entered into a contract to do so but has outsourced the mortgage administrator’s activity to another person”.

While this scenario might be specific to a handful of firms in both the first and second charge mortgage markets, further guidance on the treatment of this reporting requirement would be welcome.

15. *Do you agree with the FCA proposal to change the category labels on MLA-G and MLA-G1 in SUP 16 Annex 19AR and 19AAR? If not, what amendments do you suggest?*

Yes – we are supportive of this.

16. *Do you agree with the PRA proposal to change the category labels on the MLA-G and MLA-G1 templates and add a footnote clarifying that the templates refer to FCA glossary definitions? If not, what amendments do you suggest?*

Yes – we are supportive of this.

It might also be worth referencing any new definitions contained in the PRA rulebook (Appendix 2 Draft rule book text Annex A Chapter 22) in relation to 'Further Advance', and 'Internal Product Transfers' that would be applied into the FCA handbook as this could be relevant for those firms that are not PRA regulated.

17. *Do you agree with the FCA proposal to amend the guidance in SUP 16 Annex 19B G to make clear how firms with the administering permission should complete MLAR? If not, what amendments would you suggest?*

Yes – we are supportive of this.

18. *Do you agree with the PRA proposal to amend its 'Notes for the completion of the Mortgage Lenders and Administrators Return ('MLAR')' as set out in Appendix as set out in Appendix 3? If not, what amendments would you suggest?*

Yes – we are broadly supportive of this.

However, we would reiterate that any PRA guidance notes created should be consistent with the equivalent guidance notes contained in the FCA Handbook.

Other comments

We would also welcome changes to the '[Frequently Asked Questions](#)' section on the FCA's '*Mortgage lending & administration data items*' pages. These appear to be outdated, and could be worth revising to reflect the changes as proposed in the CP. This might also be useful as a guide for some of the newer firms operating within the second charge mortgage market when considering their reporting requirements.

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