

Regulation debate is not over

The FSA may have decided that packager regulation is unnecessary, but there is still an underlying cause for concern. Is it good for the industry or its customers to have a number of unregulated players, some of whom may not adhere to the highest standards?

At the recent Mortgage Summit in Dubai, Mandy Spink, head of the Financial Services Authority's mortgages and credit unions department in the small firms division, confirmed packager regulation was seen as unnecessary for the foreseeable future.

Far from effecting closure on the subject, this announcement leaves the situation unresolved and ripe for continued debate.

Looking back to 2004, lenders preparing for M-Day were, quite understandably, tightening both their belts and braces on the regulatory front, and many of them decided to deal only with regulated packager firms.

On the other hand, the FSA was clear only firms carrying out regulated activities such as advising and arranging should – and could – become authorised and thereby achieve regulated status.

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This left packagers with two options. One was to convince lenders ‘pure packaging’ was squeaky clean enough to ensure no detriment to their compliance performance, and some packagers have succeeded in this.

The alternative was for packagers to become regulated in their own right by undertaking at least one regulated activity.

Some firms – including some Professional Mortgage Packagers Alliance members – already had direct-to-consumer operations and were able to gain regulated status for this part of their trading activities.

Others applied for and obtained their FSA permissions to carry out mortgage advice activity and either started small B2C operations or simply kept this option in

reserve. Either way, packagers continued to deal with lenders, with around 95% now estimated to have FSA authorisation.

How long can we remain in this current nonsensical situation? Imagine the position if a similar scenario existed in another environment. A dairy that produces cheese and the farmer providing the raw material are both subject to stringent hygiene rules, as is the food retailer who sells pre-packed cheese sandwiches to consumers.

However, what if the outfit that packages the sandwiches is not subject to any regulation on the grounds that they do not deal with the end customer?

The tiny minority that fail to observe the standards that regulation would have imposed have the potential to damage the reputation of the entire industry sector. Here lies the similarity to our own situation.

The packager regulation question is a complex jigsaw that still has a number of missing pieces. For instance, after the FSA's announcement that packagers would not be regulated, will lenders change their stance and welcome on board all packagers, whether or not they have an FSA number?

And if they do this, and packagers divest themselves of their regulated subsidiary operations to become deregulated, is this good for the industry and its customers?

As a self-declared supporter of packager regulation, I feel the mortgage distribution/packaging sector should continue to keep the debate open and seek a satisfactory solution to the regulation question, even though the FSA considers the topic closed.



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