

SRA Compensation Arrangements Review A response by the BSA

About the Building Societies Association

1. The Building Societies Association (BSA) represents mutual lenders and deposit takers in the UK including all 45 UK building societies. Mutual lenders and deposit takers have total assets of over £330 billion and, together with their subsidiaries, hold residential mortgages of over £230 billion, 18% of the total outstanding in the UK. They hold over £230 billion of retail deposits, accounting for 19% of all such deposits in the UK. Mutual deposit takers account for over 30% of cash ISA balances. They employ approximately 39,000 full and part-time staff and operate through approximately 1,600 branches.

Key points

2. We welcome this opportunity to respond to the suite of SRA consultation papers into the future regulation of solicitors. This response should be read in conjunction with responses to the other SRA consultations issued in May of 2014.

Consultation questions

Do you agree with the proposal to introduce an eligibility criteria for applicants making a claim on the SRA's Compensation Fund?

3. We strongly disagree with the proposal to introduce an eligibility criteria for the SRA Compensation Fund. The compensation fund is a fund of last resort, and if a client is making a claim that would indicate that something has gone seriously wrong with the firm and its regulation. Clients of solicitors, including mortgage lenders, trust in the regulatory and oversight structure provided by the SRA and if there has been serious wrongdoing it is appropriate that they can go to the Compensation Fund to reinstate their losses.

4. In practice, the hardship test means that it is unusual for mortgage lenders to successfully claim on the compensation fund. However, in the case of dishonesty on the part of the firm, it is important that all clients retain the option to make a claim against the solicitor.

Do you agree that only individuals, small enterprises, charities and trusts should be able to claim from the SRA's Compensation Fund?

5. No, for the reasons above.

If you do not agree with the proposal, please offer any alternative suggestions for reducing the burden on the SRA's Compensation Fund.

6. Claims on the compensation fund arise due to serious regulatory failings, such as failure to have professional indemnity insurance or fraud. A more robust regulatory regime would prevent these failing and thus reduce claims on the compensation fund.

Other comments

7. We note that the consultation into the changes to regulation by the SRA has a short consultation period of six weeks, with an intention to implement in October 2014. We do not believe that these periods are sufficiently long enough to consult adequately and to prepare for any changes made to the regulatory regime.

Further information and contact

8. This response has been prepared in consultation with BSA members. If you have any queries regarding the document, please contact colette.best@bsa.org.uk.