BSA Response to FCA Loan-based ('peer -to-peer') and investment-based crowdfunding platforms consultation.

CP18/20

Restricted
25 October 2018

Building Societies Association

Introduction

The Building Societies Association (BSA) represents all 44 UK building societies. Building societies have total assets of over £396 billion and, together with their subsidiaries, hold residential mortgages of over £312 billion, 23% of the total outstanding in the UK. They hold over £276 billion of retail deposits, accounting for 18% of all such deposits in the UK. Building societies account for 37% of all cash ISA balances. They employ approximately 40,000 full and part-time staff and operate through approximately 1,550 branches.

This response has been prepared by the BSA in consultation with its members. We have provided responses to only those questions that are directly relevant to our members.

General Comments

We welcome the FCA paper and agree with the spirit of the consultation which addresses a potential gap in protection for consumers choosing to apply for home finance via a Peer to Peer (P2P) platform. We welcome new entrants as competition and innovation are the sign of a healthy market place. However, it is key that any new entrants are held to the same high regulatory standards as the incumbents to maintain a level playing field, and importantly, ensure that all consumers no matter the origination of their home finance have the same protections. As there is currently no UK P2P market for regulated home finance we have made some assumptions in our response.

The Mortgage Market Study highlighted the plight of “mortgage prisoners”, industry has responded by working with the FCA to help find solutions for these customers. Although difficult to predict business models of these entrants we expect platforms to form partnerships with intermediaries to provide advice and administrators to manage the mortgages post sale.

This raises a question around how easy would it be for customers to switch? If products are structured in the traditional way i.e. an initial fixed rate that then move to a variable reversion product, would these platforms provide suitable alternative products? What if they become inactive or withdraw from offering new products does this mean we are potentially creating more “mortgage prisoners” if the customer has a change in circumstances and no longer meets regulatory affordability requirements?

Another consideration would be that investors and platforms would clearly receive a better return on their money with a higher reversion rate, they would not have a traditional lender/customer relationship, as this would be a simple investment. It is therefore important that there are no barriers to the customers switching their product as they could do with a traditional mortgage lender.

Questions for discussion

Q26: Do you agree with our proposal to apply MCOB 11 to platforms facilitating home finance products, where one or more of the investors is not an authorised home finance provider? If not, what amendments would you suggest?

We strongly agree with the proposals to apply MCOB 11 to platforms facilitating home finance products, assessing affordability is the cornerstone of responsible lending and ensures consumer protection as well as consistency across different home finance providers. Any organisation in this lending space should be subject to the same standards.

Q27: Do you agree with our proposal to apply MCOB 13 to platforms facilitating home finance products, where one or more of the investors is not an authorised home finance provider? If not, what amendments would you suggest?

The nature of these platforms means there will be many investors who have provided the funds for the home finance, this type of business model removes the one on one relationship that a financial institution has with their customer or member. It is therefore crucial that consumers receive the full protection of MCOB 13 rules if they were to fall into difficulty making payments and ensure they are treated fairly. We fully agree with the proposal to apply MCOB 13.

Q28: Do you agree with our proposal to apply offer stage and post-contractual disclosure rules to platforms facilitating home finance products, where one or more of the investors is not an authorised home finance provider? If not, what amendments would you suggest?

All customers applying for home finance should receive the same information throughout the various stages in the sales process and during the term of the contract. This ensures consistency of protections for consumers no matter the origination of the mortgage.

Section 7.26 of the consultation states:-

"We also propose that home finance platforms should have the option to disclose product information via a European Standardised Information Sheet (ESIS) rather than a KFI, and to use an annual percentage rate of charge (APRC) figure rather than an annual percentage rate (APR) as a cost of comparison tool. Where an investor is an MCD creditor that investor would be required to provide the ESIS and use an APRC in any case"

It is difficult to understand why there is an option of providing an ESIS or KFI as the provision of an ESIS will be mandatory requirement for all new regulated mortgage contracts by 21st March 2019(excluding the exceptions outlined in MCOB i.e. Lifetime

Mortgages etc..), it is very unlikely a P2P platform would be in a position to offer regulated home finance prior to this date. It is vitally important that all consumers receive an ESIS document which would enable them to accurately compare different offerings.

Q29: Do you agree with our proposed changes to pre-contractual disclosure rules for platforms facilitating home finance products, where at least one of the investors is not an authorised home finance provider? If not, what amendments do you suggest?

The proposals suggested are sensible and on the whole we agree with them, listing all the investors in the Key Facts Illustration or ESIS clearly would not be practical or add any value to the customer as the platform would in effect be their point of contact. However more clarity on the "description of the type of investors" would be welcome. How granular would this information be? How would accuracy be ensured? This information is accurate at origination but how does it account for drastic changes to the type of the investors, through potential swapping in and out? Would customers be updated of any significant changes in investors?

A plain language description of the scope of services provided would be welcome.

Q30: Do you agree with our proposal to apply other MCOB rules to platforms facilitating home finance products, where one or more of the investors is not an authorised home finance provider? If not, what amendments do you suggest?

We fully agree with these proposals.

Q31: Do you agree with our proposal to apply our data reporting rules to platforms facilitating home finance products, where one or more of the investors is not an authorised home finance provider? If not, what amendments do you suggest?

All providers of home finance should have the same reporting requirements this ensures the regulator has a clear and consistent view of the whole market. It also ensures new entrants do not have an advantage in terms of the resource and cost required to manage this compliance function.

Q32: Do you have any comments on the application of our other (i.e. not MCOB) rules to platforms facilitating home finance products, where one or more of the investors is not an authorised home finance provider?

We welcome the clarity that the financial resource required for P2P platforms providing home finance would be covered by the non-bank mortgage lender requirement rather than the standard requirement for P2P platforms.

Whilst we understand the rationale of not equalising the capital requirements of these platforms with mortgage bank or building society requirements, it could be argued that that these platforms have an excessive competitive advantage over our members because of this. We propose a middle ground solution which should not deter new entrants to market.

The capital resource requirement for non-bank mortgage lenders is the higher of £100,000; and the sum of:

(a) the credit risk capital requirement calculated in accordance with MIPRU 4.2A; and
(b) 1% of its total assets plus total undrawn commitments and unreleased amounts under the home reversion plan; less intangible assets loans, securitisation positions and fund positions subject to MIPRU 4.2A.4 R.

If mortgage lending by P2P platforms develops to a great extent, one or more such platforms could become systemic – the question then is, do these requirements sufficiently mitigate risk. There is, for instance, no component for operational risk, though this becomes an appreciable concern for a large platform. There should be an upward sliding scale starting at 1.5% for total assets of over £100 million and perhaps 2% above £500 million. We believe this would help maintain a level playing field and competition in the market but at the same time recognising the fundamental differences of a P2P platform and a deposit-taking mortgage lender.

We agree with the consistency of P2P platforms administering home finance paying fees in the A2 block, based on the number of contracts they manage.

We do not envisage many peer P2P platforms providing advice and instead expect them to form partnerships with intermediaries to undertake the advice element of the journey however any firm that offers advice must ensure that staff are adequately qualified to do so in line with the Training and Competence manual.

Conclusion

The BSA welcomes the opportunity to input through the FCA's Consultation and we will be happy to engage further with FCA on the matters raised above.

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The Building Societies Association (BSA) is the voice of the UK's building societies and also represents a number of credit unions.

We fulfil two key roles. We provide our members with information to help them run their businesses. We also represent their interests to audiences including the Financial Conduct Authority, Prudential Regulation Authority and other regulators, the Government and Parliament, the Bank of England, the media and other opinion formers, and the general public.

Our members have total assets of over £387 billion, and account for 22% of the UK mortgage market and 18% of the UK savings market.