

Anthony Apponyi

From: "Meryl Morgan" <Meryl.Morgan@morgan-cole.com>
To: "Anthony Apponyi" <aa@chainmender.co.uk>
Sent: 18 September 2008 19:54
Attach: 2008 09 18 mdm md - advice.doc; DOC.pdf
Subject: Need for Introducers to be licensed
Anthony

Thank you for the update today on SHAPE.

Please see attached memo of advice.

A further point - as CHAIN FREE will be an exempt agreement for the purposes of the Consumer Credit Act, you will no longer need a Consumer Credit Act Licence for this product.

Have a good holiday.

Regards,

Meryl

Meryl Morgan | Partner | **Banking**
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Mary Dewey

From: Mary Dewey on behalf of Meryl Morgan
Sent: 27 February 2007 15:01
To: 'aa@chainmender.co.uk'
Subject: Chain Mender Limited and VAL FREE

Anthony

Thank you for your email below which we have discussed.

I confirm that subject to the two conditions outlined below, estate agents introducing VAL FREE™ to either Chain Mender Limited or the lenders who will provide the VAL FREE™ regulated mortgages, can rely on the exclusions from FSA regulation contained in PERG 4.5.11 G.

The conditions (PERG 4.5.12 G) are that:

1. the estate agents cannot receive any money paid by the borrower in connection with VAL FREE™ other than money legitimately due to the estate agent for services rendered to the borrower, and
2. the estate agents must, before introducing the borrower to you or the lender, disclose (PERG 4.5.14 G):
 - (a) details of any fee or commission which the estate agent will receive from Chain Mender Limited or the lender for introducing the borrower, and
 - (b) an indication of any other reward or advantage arising out of the introduction which the estate agents will receive. Examples given by the FSA of such reward or advantage are office space, travelling expenses and subscription fees.

I note the permissions that have been suggested to you by Jennifer Nwaghanata. I recommend that if you proceed with VAL FREE™ you also apply for permission to advise on regulated mortgage contracts in that it is a fine line between arranging and advising on a regulated mortgage contract. The FSA would consider a statement by you to potential borrowers that you "recommend that they take out a VAL FREE™ mortgage" as providing advice on a regulated mortgage contract.

Regards,

Meryl.

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From: Apponyi [mailto:amsa@btconnect.com]
Sent: 23 February 2007 10:28
To: Meryl Morgan
Subject: Chain Mender Limited and VAL FREE

MEMORANDUM

To: Anthony Apponyi
From: Meryl Morgan
Date: 18 September 2008
Re: Need for Introducers to be Licensed

Anthony

In your emails of 8 and 9 September you asked me:

- (a) if Introducers require a credit brokerage licence for CHAIN FREE; and
- (b) could Introducers (selling the participant's property) tell potential buyers about VAL FREE and own branded (Islamic and western/main stream lenders) Musharaka and Takaful.

My advice is as follows.

1. OFT Credit Brokerage Licence

- 1.1 CHAIN FREE will be an exempt agreement for the purposes of the Consumer Credit Act ("CCA") 1974 as a result of a new exemption to be introduced into the CCA 1974 on 1 October 2008. This exemption was designed for investment properties (ie the buy to let market). However, CHAIN FREE will meet the criteria for this exemption (i.e be secured by a mortgage over land and at the time the loan is granted less than 40% of the land is used as a home by the borrower or a person connected with him).
- 1.2 As CHAIN FREE is an exempt agreement, Introducers will not require a credit brokerage licence for CHAIN FREE.

2. FSA registration for VAL FREE

- 2.1 **NOTE** I have assumed that VAL FREE will be a Regulated Mortgage Contract ("RMC") (i.e secured by a first charge over a home in the UK at least 40% of which is occupied by the borrower or a person connected with him).
- 2.2 The position remains as outlined in my email to you of 27.2.2007 (copy attached). Accordingly subject to the two conditions referred to in the email, Introducers can rely on the exclusion from registration referred to in PERG 4.5.11 G.

3 FSA authorisation for Islamic Products

- 3.1 The provision of Home Purchase Plans ("HPP") is regulated by the FSA. A HPP is an arrangement under which, at the time it is entered into
- a person buys a qualifying interest, or an undivided share of a qualifying interest, in land (other than timeshare accommodation) in the UK;
 - an individual or a trustee whose beneficiary is an individual is obliged to buy that interest over the course of or at the end of a specified period; and
 - the individual or a related person is entitled to use at least 40% of the land as a home during that fixed period and intends to do so.
- 3.2 Certain Islamic home financing arrangements will be home purchase plans (providing they meet the necessary conditions) i.e
- Ijara arrangements (where the provider buys the land and allows the customer to occupy it whilst also making regular payments toward eventually buying the land)
 - diminishing Musharaka arrangements (where the provider and the customer share an interest in the land and the customer gradually acquires a greater interest in the land over a period of time).
- 3.3 Murabaha arrangements involving the homeowner buying the property from the provider on deferred payment terms will be a RMC assuming that the necessary criteria for a RMC (including a first charge on the home) is met.
- 3.4 There are identical exclusions from FSA registration for Introducers for HPP as for RMCs (see 2.2 above); these are referred to in PERG 14.4.
- 3.5 Takaful is regarded as an insurance product by the FSA and regulated accordingly. I have assumed that no takaful products will be provided by funders for home purchase purposes.

Regards,

Meryl

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