

Article for Niche Personal Loans – November 2007

The FSA cometh

The regulatory landscape is ever-changing and now is a real crossroads for those of us involved in lending. The inevitable result of the eruptions around Northern Rock is that there will be a rush to “regulate”. In trying to stop it all happening again, more rules will be put in place and more supervision will result. It will not matter whether firms are in the same space as Northern Rock, the temperature will be raised for all.

The FSA have already announced a big increase in people to try to help smaller firms get to grips with Treating Customer Fairly and their requirements around the more meaningful parts of the Mortgage Conduct of Business rules. Those firms who are regulated via their insurance authorisation will also be impacted by the lava flow of the new insurance rules currently under review.

The FSA have responded to the claims that too many small firms are either under the radar or operating as though they are. By adding staff, they intend to contact all firms by phone next year to conduct a risk assessment and then follow up by visiting the 25% that cause most concern - those that cannot set out how they ensure good customer outcomes. All authorised firms will have a face-to-face visit in the next 4 years. This will impact on virtually all secured loan brokers.

There are fears, which I hope are unfounded, that many firms in the secured loans arena do not appear to understand their regulatory responsibilities. I am told that firms have been advised in the past that if they are complying with the rules in ICOB, then they will be “on safe ground”. At a recent meeting at the FSA, those responsible for the new ICOB indicated that this represented only about 10% of the factors that an authorised firm would have to consider in dealing with insurance sales. The 11 principles of the FSA, the Prudential requirements, Systems and Controls, General Provisions etc, alongside common law, insurance law, case law and interpretation by ombudsmen are all additional factors.

These are complex inter-relating issues that need careful consideration. Firms struggling to survive in a difficult climate with fewer lenders and illiquid capital markets need to ensure that they are adopting the best business practices.

It is not for me to scare-monger, but I do fear that without the help of trade associations such as the AFB, secured loans firms could find this latest temperature hike, one too many and they will find themselves in “hot water”. This is a time for brave leadership and clear direction.

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