

## Cleaning up the Mortgage Market: FSA cracks down on mortgage fraud

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Mortgage fraud is, according to the FSA, "a serious and widespread problem". The fear is that mortgage fraud is in many cases connected with and driven by other types of crime, such as terrorism, people trafficking, and illegal drugs.

Common examples of mortgage fraud include:

- Use of fraudulent documentation (e.g. bank statements, bills, wage slips, Passports, and Driving Licences) in order to falsify identity, employment and/or income details;
- Falsification of property valuation details in order to obtain inflated, under-secured sums on properties; and
- Multiple applications made by one person using different personal details and stated income, either to the same lender or lenders within a group.

There are a complex of reasons for the increase in mortgage fraud in the past decade. Chief among them have been the (until recent) willingness to lend, and increasingly straightforward "tick box" application procedures.

### The FSA's approach to the problem

The FSA is serious about fighting mortgage fraud. It has stepped up enforcement activity in this area - in recent months, it has imposed bans and fines on numerous errant mortgage intermediaries. Additionally, it recently sent letters to the AMI, BBA, BSA, CML, IMLA and established a new dedicated webpage to the matter,<sup>1</sup> all of which are designed to set out its co-ordinated approach to tackling mortgage fraud, the key tenets of which can be summarised as follows:

#### The Hot 200: targeted visits to mortgage intermediaries

The FSA has visited around 30 firms in order to review their systems and controls relating to financial crime and, in particular, mortgage fraud. This constitutes the initial phase of a large project in which the FSA will target 200 intermediaries in order to assess their systems and controls in this area.

#### Improved intelligence delivery

Information From Lenders ("IFL")<sup>2</sup> was launched in 2006 in conjunction with the Council of Mortgage Lenders, to allow lenders to report to the FSA the identity of mortgage intermediaries they suspected of engaging in fraudulent activities. Since the start of IFL, over 300 reports have been submitted by concerned lenders, allowing the FSA to initiate investigations and enforcement action, including enhanced supervisory oversight, heavy fines, and prohibitions. Where appropriate, information obtained under IFL has been passed to the Police and other regulators. However, because only approximately 25 of the 150 or so mortgage lenders in the UK have signed up to IFL, the FSA now proposes to increase the level of participation, and therefore the intelligence received, by streamlining reporting processes and providing greater clarity to lenders on the information needed from them.

Additionally, from 21 August 2008, the FSA will operate a mortgage intermediary reporting scheme.<sup>3</sup> This is designed to allow mortgage intermediaries to comply with their obligations to report wider suspicions of fraudulent activity, or examples of poor practices resulting in potential fraud.

#### Improved intelligence use

The FSA is currently developing a mortgage fraud database from various internal and external sources in order to identify typologies of mortgage fraud, thus enabling more efficient targeting of supervision, investigation and enforcement resources. Firms will be expected to be able to recognise mortgage fraud and demonstrate that they have robust due diligence processes in place for verifying information on clients, employees and introducers.

#### Improved cooperation between authorities

The FSA will seek to strengthen its engagement with other regulators, the Police, and the National Fraud Strategic Authority (the "NFSA") by providing them with specialist

<sup>1</sup> [http://www.fsa.gov.uk/pages/About/What/financial\\_crime/fraud/key\\_issues/mortgage/initiatives/index.shtml](http://www.fsa.gov.uk/pages/About/What/financial_crime/fraud/key_issues/mortgage/initiatives/index.shtml)

<sup>2</sup> [http://www.fsa.gov.uk/pages/Doing/Regulated/supervise/mortgage\\_fraud.shtml](http://www.fsa.gov.uk/pages/Doing/Regulated/supervise/mortgage_fraud.shtml)

<sup>3</sup> [http://www.fsa.gov.uk/pages/Doing/small\\_firms/mortgage/library/report\\_fraud.shtml](http://www.fsa.gov.uk/pages/Doing/small_firms/mortgage/library/report_fraud.shtml)

mortgage fraud expertise, and through the sharing of information, intelligence, and experiences. The ultimate objective of this engagement is to develop a coordinated national strategy to tackle mortgage fraud at all levels, from individuals, corrupt professionals, and organised criminal gangs.

### Improved cooperation between market participants

The FSA is encouraging lenders, trade associations, and anti-fraud bodies to improve information sharing and intelligence analysis within the industry. The FSA is continuing to support the Council of Mortgage Lenders ("CML") in its efforts to develop a cross-industry capacity to analyse application data, building on existing and widely-used systems, and is encouraging further private-public sector information sharing.

### Approved Persons regime

The FSA will undertake a review, later in 2008, as to whether the customer function should be applied to mortgage intermediaries.<sup>4</sup>

### FSA enforcement success

The FSA claims to have been increasingly successful at identifying and tackling fraud by mortgage intermediaries, with a recent explosion in prohibitions and fines. In the last year, the FSA has imposed prohibitions on no fewer than 17 intermediaries.<sup>5</sup> The most notable "heads on spikes" achieved by the FSA are probably:

- Sadia Nasir - banned and fined GBP 129,000 (GBP 29,000 being disgorgement of profits) for submitting seven mortgage applications containing false information; and
- Omotayo Fawole - banned and fined GBP 100,000 for submitting mortgage applications containing overstated income. Oasis Mortgage and Financial Services Limited, of which Fawole was sole controller, had its FSA authorisation cancelled.

Other culpable targets are sure to follow. And the fines are not expected to get smaller.

### Our work

Burges Salmon's Disputes and Litigation Group has advised major banks and building societies on multiple mortgage fraud scenarios. In particular, we routinely advise on:

- The development of mortgage fraud prevention systems and controls;
- Obtaining injunctions to freeze assets and then bringing proceedings to recover assets;
- Anti-money laundering and anti-terrorism financing obligations; and
- Related insurance matters.

We look forward to working with our clients to ensure that they avoid becoming victims of mortgage fraud, and that they are able to demonstrate to the FSA robust internal anti-fraud measures.

#### If you require further information, please contact:



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<sup>4</sup> [http://www.fsa.gov.uk/pages/About/What/financial\\_crime/fraud/key\\_issues/mortgage/index.shtml](http://www.fsa.gov.uk/pages/About/What/financial_crime/fraud/key_issues/mortgage/index.shtml)

<sup>5</sup> <http://www.fsa.gov.uk/pages/Library/Communication/PR/2008/090.shtml>