

Getting ready for the “people” phase of the European Mortgage Credit Directive.

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Lynne Hargreaves, Director at Clearstep Consulting assesses the implications of the changes to the TC Sourcebook.

During 2015/16 the focus of mortgage firms has been firmly fixed on those aspects of the Mortgage Credit Directive (MCD) relating to the changes to the mortgage sales process; including pre-contractual information and credit worthiness assessments alongside second charge mortgages being brought into the fold for the first time. This has resulted in many challenges ensuring systems and processes were ready and staff suitably trained on the changes for March 2016. However the focus now needs to shift to the “people” phase of the MCD legislation, as the transitional arrangements cease in March of this year.

At the highest level the legislation is about ensuring that staff have an appropriate degree of knowledge and competence, which is something that everyone in the world of T&C knows all about. Those already involved in the provision of mortgage advice are covered by the TC Sourcebook and therefore you might think there are no implications. However the MCD has both extended the scope and introduced new requirements which we will in turn take a look at.

The extended scope of the FCA TC Sourcebook now includes those involved in the manufacturing of mortgages (product design) and the offering or granting of mortgages (mortgage underwriting), as well as those roles directly managing or supervising these staff. So what does this mean?

Now, as with all things “people”, the FCA has made it clear it is

allowing firms the flexibility to identify which individuals are involved in the above, and how to ensure their knowledge and competency is in line with the requirements as specified in the TC Sourcebook.

Most clients have already identified the front-line staff who are directly involved in the underwriting of mortgages as a key population, together with their line managers/supervisors. Those roles directly involved in the manufacturing of mortgages, namely product managers who carry out the customer research, propose the pricing and follow the mortgage product lifecycle, have also been confirmed in scope. However, difficulty has been encountered identifying and agreeing where the line is drawn in terms of those roles and members of committees who ultimately “approve” the mortgage product design or finally agree the lending for a consumer. A number of these roles are already captured by the newly prescribed Senior Manager and Certification Regimes (SM&CR), therefore surely they do not fall within the scope of MCD, or SM&CR supersedes the MCD? Either that or the role of attending the approval committee only forms / makes up a small proportion of their day to day accountabilities.

I would argue that any role involved in the final “approval” of a mortgage being manufactured or the granting of credit falls within the scope of MCD and should as a matter of course have the appropriate knowledge



and competence. How this is demonstrated and validated is where the business, HR, Compliance and T&C professionals need to work together to agree the scope rationale and build complimentary frameworks or, dare I suggest, have one approach to people competency!

As well as widening the scope, the MCD also introduces 9 knowledge and competence requirements to the TC Sourcebook for both the new populations we have discussed above, as well as for existing roles involved in the provision of mortgage advice (TC App 1.1.1). These requirements must be demonstrated before an individual commences in scope activities and therefore systems and controls also need to be in place to provide appropriate risk governance.

As with scope, firms have the flexibility to design the methods to demonstrate staff knowledge and competence in the 9 areas, however before design commences I recommend that the following is undertaken:

- ❑ Descriptors are defined and agreed for each of the 9 requirements. What does knowledge of business ethics standards really mean for your firm?
- ❑ Agree what level of knowledge and competence is required for each role, mapped against each of the 9 requirements based on role profiles. For example a role involved in product manufacturing may only need an “awareness” of mortgage underwriting but a “detailed” knowledge of the mortgage market.
- ❑ Overlay how the 9 requirements are met and demonstrated by existing provision.
- ❑ Lastly, design the appropriate material for the identified gaps. There may be the opportunity to share existing collateral and approaches.

Other considerations might include how you will demonstrate that staff have achieved the appropriate level of knowledge and

competence, as well as their line managers, and what records and evidence you are required to retain.

Currently firms are facing a number of challenges demonstrating people competency due to what may sometimes seem like competing regulation; from the newly defined populations under the SM&CR legislation, to those brought into scope by the MCD and those that are already covered by the existing TC Sourcebook and the overarching Competent Employee Rule.

It is my belief that firms need to take an appropriate approach to people competency that aligns the needs of the regulator with existing cultural strategy. This includes the demonstration of said compliance via complementary policies, processes, reporting and risk management – to be continued.

Lynne and Clearstep Consulting focus on providing organisations with clear and practical advice on a variety of regulatory, people and change issues and provide solutions that are culturally aligned, simple and straightforward.