



Feedback on proposals

Submission to the invitation to comment on ASIC's Consultation Paper 309

By Better Mortgage Management (BMM)

In response to :

ASIC Consultation Paper 309 – Update to RG 209: Credit licensing: Responsible lending conduct

February 2019 | Invitation to Comment

16/05/2019

ASIC Consultation Paper 309

BMM welcomes ASIC's intention to review and update RG 209 and appreciates the opportunity to provide comment and input by way of this submission.

BMM is a Mortgage Management company based in Brisbane and operating nationally. Founded in 1999, we organise our funding for homebuyers and property investors from a variety of sources. We provide home loans and investment loans as well as providing solutions to customers in categories such as PAYG applicants, self employed, expats, and first home buyers whose needs may not be met by the majority of lenders.

In addition to being responsible for arranging the funds for a loan, we also look after the ongoing prudent management of the loan through each phase of its existence - from credit assessment to the monitoring of loan repayments, insurance renewals, interest rate adjustments and loan variations.

Overview

BMM generally supports and endorses the proposals and questions raised by ASIC in the Paper and appreciates the consultative approach and opportunity to comment.

We acknowledge the need for fine tuning and clarification of ASIC's guidance for the purposes of increased certainty, and note that a "one size fits all" approach does not suit as it may disadvantage legitimate applicants.

We are also mindful of the need to avoid increasing compliance costs, or slowing the application/assessment process.

We have not endeavoured to comment on each and every proposal or answer every question, as we believe the industry generally and many individual participants will do so adequately, but we feel strongly about some aspects and with a view to improving consumer outcomes, we make the suggestions set out on the following pages:

Extract from Consultation Paper:

B Our General Approach

Rationale

9 RG 209 notes that the obligation to make reasonable inquiries and take reasonable steps to verify information provided is scalable, and that what a licensee needs to do to meet these obligations in relation to a particular consumer will vary depending on the circumstances. We have provided some guidance on factors that may affect whether the steps taken should be 'scaled up' or 'scaled down' to meet the reasonable inquiries and reasonable steps threshold.

BMM Response:

BMM appreciates this approach and makes the following observation in support –

There is a class of applicant who may not fit the standard model in respect of their income/asset position. They may be referred to as “sophisticated borrowers” but also include many applicants who are simply unable to demonstrate sufficient income to pass standard serviceability tests, and yet hold significant asset positions which could be realised in part to meet obligations should the need arise. These would generally be high net worth borrowers with multiple investment properties and other investments who may also hold substantial equity in their owner occupied residence.

We propose that such customers should not be precluded from obtaining finance.

If considered necessary, ASIC could provide guidance requiring an acknowledgement to be executed by the applicants, confirming their understanding that their stated/proven income does not meet standard serviceability tests and sale of their assets may need to be relied upon to meet servicing and repayment of debt, but that they choose to proceed with the transaction notwithstanding.

Example case:

Customer owns owner occupied home valued at \$1m with small loan \$150,000.

Has 2 investment properties with loans less than 50% loan to valuation ratio.

Also has listed share portfolio.

Fails servicing test.

Currently such customers' loan applications would be declined.

This current situation may not lead to good customer outcomes and is not good for competition or economic growth.

In this situation we believe the customer should not be precluded from obtaining an approval, and our proposal would enable a loan to be approved, thus meeting the customer's requirements. In such a situation a customer could sell either investment property or shares and pay down debt in the event of difficulty.

The owner occupied residence not to be taken as security, nor an investment property when that is the only property owned.

This would provide the best customer outcome, be proactive for competition and beneficial for the economy.

We suggest that a requirement may be to obtain an acknowledgement from the customer as per the attached sample.

Other Matters

BMM makes no submission in respect of the other proposals raised in the Consultation Paper.

We again confirm our general support for the intent of the proposals and questions raised in the Paper, and thank ASIC for the opportunity to make this submission.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Murray Cowan', with a stylized flourish at the end.

Murray Cowan

Managing Director