FINANCE BROKERS OF TASMANIA PTY. LTD.

Where Smart People go for Loans

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Standing Committee on Economics

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Mr Craig Thomson MP
Chair
Standing Committee on Economics
PO Box 6021
House of Representatives
Parliament House
CANBERRA ACT 2600

Dear Mr Thomson

Inquiry into competition in the banking and non-banking sectors

Mortgage brokers play a critical role in maintaining a competitive mortgage market because they subject every loan they originate with either a bank or non-bank lender to independent price scrutiny and comparison with competing products. This process continuously puts pressure on lenders to offer homebuyers competitive rates and loan features on new lending. It is therefore critical that the Federal Government's proposals to regulate the mortgage broking industry and consumer credit enhance and not undermine competition between broker services and both bank and non-bank lenders offering their own branded products direct to borrowers.

Borrowers from either bank or non-bank lenders will benefit from an efficient, competitively neutral mortgage broking regulation regime which provides them with appropriate consumer protection without adding unnecessary costs to brokers and, ultimately, to borrowers.

Loans originated directly by either a bank branch or a non-bank mortgage provider are not subjected to a process of independent comparison. In those circumstances the loans officer should be required to inform the loan applicant that they act for the lender and not the borrower, and are not able to provide independent advice about whether the loan is appropriate for the borrower relative to other available competing products.

Broking regulation is likely to require brokers to disclose the fees and commissions they receive for broking a loan. To maintain a fair and competitive market, bank and non-bank staff arranging loans direct with a borrower should be required to disclose any incentive based remuneration they will receive from selling a mortgage or other financial products related to the mortgage.

The States have agreed to transfer their powers to regulate mortgage broking to the Commonwealth. The Federal Government's Green Paper says work on developing these regulations will be assisted by a draft bill to regulate mortgage broking previously agreed by State Ministers for Consumer Affairs. Borrowing costs for homebuyers would increase as a result of three major defects in that draft State legislation. This is a major housing affordability issue as brokers have originated about 40% of the value of all current home loans.

The first defect is that brokers would be required to independently determine a borrower's capacity to make repayments. That function is properly the role of the lender. The US sub-prime

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Like most people who work in the mortgage broking industry, I believe that regulation is desirable to ensure high standards of service to borrowers and provide a mechanism to remove from the industry any operator who is incompetent or dishonest.

An effective and efficient regulatory regime should require brokers to:

- be registered;
- have appropriate qualifications and experience, such as a Certificate IV in Financial Services (Finance/Mortgage Broking) or equivalent;
- enter a written contract to act on behalf of the borrower, specifying the type of loan sought and setting out the broker's remuneration;
- hold adequate professional indemnity insurance; and
- be a member of an external dispute resolution scheme to give borrowers access to an inexpensive and efficient mechanism for resolving complaints.

Mortgage lending is a highly competitive industry with many brokers operating across State boundaries. Even small regulatory differences between States interfere with the efficient delivery of mortgage finance and increase costs to borrowers. For this reason any regulation of mortgage broking should be a Federal Government responsibility.

Brokers play a critical role in a competitive mortgage market subjecting every one of the loans originated through them with either a bank or non-bank lender to independent price scrutiny and comparison with competing products. Loans originated by a bank branch are not subjected to this process of independent comparison. Bank staff should be required to inform loan applicants that they are acting for the lender and not the borrower, and that they are not able to provide independent advice about whether a bank loan is the most appropriate for the borrower relative to other available competing products. In the same way that brokers will be required to disclose the fees and commissions they receive, bank staff should be required to disclose to loan applicants any incentive based remuneration.

Borrowers from both banks and non-bank lenders will benefit from an efficient, competitively neutral mortgage broking regulation regime which provides them with appropriate consumer protection without adding unnecessary costs to brokers and, ultimately, to borrowers.

These are important issues for the homebuyers our business assists by arranging finance. I would appreciate your response so that I can assure clients that federal mortgage broking regulation: will not include any of the defective elements of the State proposals; will be competitively neutral between broker services and direct bank lending; and will not impose unnecessary additional costs on borrowers.

Yours faithfully

Malcolm O'Brien
Finance Brokers of Tasmania