

## CMS/AXA PROPOSAL FORM FOR MORTGAGE INTERMEDIARIES 2018

### **Presentation and Background Information**

The proposal form is usually the main point of contact between your Firm and us, the Underwriters. It is therefore important that the information contained in the form is expressed and presented to a high standard. Where there is insufficient space available, please use clearly marked appendices, indicating which questions they refer to.

### **The Proposal Form - The Duty to Disclose**

This proposal form is the document which legally forms the basis of the contract between the Insured and the Insurer. It is crucial that there is the fullest possible disclosure on all aspects about the proposer if full cover is to be provided. This would include, but is not limited to:

- a full list of all corporate entities, trading titles and predecessors in business must be fully disclosed, the full range of services and business activities performed by the Firm(s) proposing for insurance must be disclosed,
- a full list of any and all past and existing claim(s) or circumstances which could give rise to a claim against any of the Firm(s) proposing for insurance must be provided.

### **The Continuing Duty to Disclose**

The duty to disclose material facts is not confined to completion of proposal forms at inception or renewal. The contract of insurance is arranged on the basis of this information. If, during the period of insurance arranged there is any material alteration/change in the information disclosed in the proposal form, prompt disclosure to us is essential. This might include, but is not limited to:

- new partners, directors, corporate entities, partnerships or trading titles,
- a change in the areas of activity of the insured Firm(s),
- the possibility of a claim being made against the Firm(s),
- any change in the trading status of the Firm(s), or membership of professional bodies, or regulatory status.

### **Claims and/or Claims Circumstances**

The policy to be arranged provides cover on a “claims made” basis, which means that cover must be in force at the time you first become aware of a claim or circumstances which could lead to a claim. Notification to us must be given at that time. It is that policy which will respond to any subsequent claim - even if the claim develops years later and/or arises out of activities performed prior to its inception. Whilst every question on the proposal form is important, the contract of insurance relies heavily on the disclosure given under Section 6. It is essential that full enquiry and discussion take place between all partners/directors and senior staff before any answers are given. You are reminded that failure to disclose material information, for whatever reason, may void your policy. If you are in any doubt as to what may constitute a material fact or circumstances to be disclosed, please disclose the information – too much information is preferable to too little, and the consequences thereof.

### **Insurance Act 2015 – Duty of fair presentation**

1. Before this insurance contract is entered into, the Insured must make a fair presentation of the risk to the Insurer, in accordance with Section 3 of the Insurance Act 2015. In summary, the Insured must:

- a) Disclose to the Insurer every material circumstance which the Insured knows or ought to know. Failing that, the Insured must give the Insurer sufficient information to put a prudent insurer on notice that it needs to make further enquiries in order to reveal material circumstances. A matter is material if it would influence the judgement of a prudent insurer as to whether to accept the risk, or the terms of the insurance (including premium);
- b) Make the disclosure in clause (1)(a) above in a reasonably clear and accessible way; and
- c) Ensure that every material representation of fact is substantially correct, and that every material representation of expectation or belief is made in good faith.

2. For the purposes of clause (1)(a) above, the Insured is expected to know the following:

- a) If the Insured is an individual, what is known to the individual and anybody who is responsible for arranging his or her insurance.
- b) If the Insured is not an individual, what is known to anybody who is part of the Insured’s senior management; or anybody who is responsible for arranging the Insured’s insurance.
- c) Whether the Insured is an individual or not, what should reasonably have been revealed by a reasonable search of information available to the Insured. The information may be held within the Insured’s organisation, or by any third party (including but not limited to subsidiaries, affiliates, the broker, or any other person who will be covered under the insurance). If the Insured is insuring subsidiaries, affiliates or other parties, the Insurer expects that the Insured will have included them in its enquiries, and that the Insured will inform the Insurer if it has not done so. The reasonable search may be conducted by making enquiries or by any other means.

**Remedies for a breach of the duty of fair presentation under the Insurance Act 2015**

In the event of a breach by the insured of the duty of fair presentation the insurer may apply the following remedies if the insurer shows that, but for the breach, the insurer:

- a) would not have entered into the contract of insurance at all; or
- b) would have done so only on different terms.

A breach for which the insurer has a remedy against the insured is referred to as a “qualifying breach” and can be either;

- a) deliberate and reckless; or
- b) neither deliberate and reckless

*Deliberate or reckless breaches*

If a qualifying breach was deliberate or reckless, the insurer;

- (a) may avoid the contract and refuse all claims, and
- (b) need not return any of the premiums paid.

*Other breaches*

If a qualifying breach was neither deliberate nor reckless.

a) If, in the absence of the qualifying breach, the insurer would not have entered into the contract on any terms, the insurer may avoid the contract and refuse all claims, but must in that event return the premiums paid.

b) If the insurer would have entered into the contract, but on different terms (other than terms relating to the premium), the contract is to be treated as if it had been entered into on those different terms if the insurer so requires.

c) In addition, if the insurer would have entered into the contract (whether the terms relating to matters other than the premium would have been the same or different), but would have charged a higher premium, the insurer may reduce proportionately the amount to be paid on a claim.

“reduce proportionately” means that the insurer need pay on the claim only X% of what it would otherwise have been under an obligation to pay under the terms of the contract (or, if applicable, under the different terms provided for by virtue of paragraph b), where;

$$X = \frac{\text{Premium actually charged}}{\text{Higher premium}} \times 100$$

**1. PROPOSING BUSINESS/COMPANY REQUIRING COVER**

- a) Starting with the **main practice** please enter below the full names of any company/business requiring cover that are **currently trading**. If applicable, please also list any other trading styles.

Name	Establishment Date

- b) Please provide the FCA authorisation number

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- c) If the proposing company/business is acting as an Appointed Representative of a directly regulated firm or network please provide the name of the principal firm.

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- d) Main Office Address

Telephone Number	
Fax Number	
Website Address	
E-mail Address	

- e) Please state below the names of any past company/business including predecessors in business for which run-off cover is required

Name	Period of trading	
	From	To

Please tick the box to confirm that none of the above are limited companies that have been wound up or have no assets

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- f) Please provide the following details in respect of any current or past Appointed Representatives for which cover is required

Name	Location	Appointed	Terminated	Turnover

- g) If any of the proposing entities operate on a Tied or Multi-Tied basis please provide the name of the product provider(s)

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**2. PRINCIPALS, ADVISERS AND STAFF**

- a) Please provide the following details of all Directors/Partners/Principals

Name	Age	Qualifications	Experience

- b) Please provide the number of staff, other than the Directors/Partners/Principals named above, in the following categories

Employed Registered Individuals	
Self Employed Registered Individuals	
Unregistered Mortgage or Protection Advisers	
Paraplanners and other Technical Staff	
Administrative Staff	

- c) Please provide the number of individuals that have joined or left the business/company during the last 12 months in the following categories

	Leavers	Joiners
Employed Registered Individuals		
Self Employed Registered Individuals		
Unregistered Mortgage or Protection Advisers		
Paraplanners and other Technical Staff		
Administrative Staff		

**3. COMPLIANCE AND REGULATION**

- a) Please provide details of how the Compliance Function is managed, if outsourced to a specialist provider then please provide the name

- b) What proportion of new business files are checked before the recommendations are presented

- c) What proportion of new business files are checked after any recommendations are presented

- d) Please provide the location(s) of any individual not based at the **Main Office Address**

- e) Was each individual referred to above the subject of a Compliance Audit in the last 12 months

Yes	No

- f) Please indicate whether any proposing company/business has received, or is on notice of, a visit from a Regulator. Please provide a copy of the report

Yes	No

<b>Visit Date</b>	___/___/___
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**4 INCOME**

- a) Please confirm the date of your last financial year end prior to the policy inception date

DATE
___/___/___

- b) Please advise for the financial year-end identified in Question 4.a) above and the previous 4 financial years (where applicable), the total gross brokerage/commission/fee income of all proposing companies/business, generated by all principals/employees/self-employed persons and appointed representatives

Last Complete Financial Year	£
Previous Financial Year	£
Previous Financial Year	£
Previous Financial Year	£
Previous Financial Year	£

- c) Please advise/estimate for the current financial year the total gross brokerage/commission/fee income that all proposing companies/business currently trading expect to achieve

£
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- d) Please advise the percentage of total gross income in the last complete financial year derived from advice/services provided with regards to the following categories.

Full Status Residential Mortgages	%
Sub-Prime Residential Mortgages	%
Self Certification Residential Mortgages	%
Buy to Let Mortgages	%
Commercial Mortgages	%
Second Charge Mortgages/Secured Loans	%
Unsecured Loans	%
Bridging Loans	%
Equity Release/Home Reversion/Home Income Plans	%
Non Investment Life/Protection (Including CI & PHI)	%
Private Medical Insurance	%
Buildings and Contents Insurance	%
ASU/ASR	%
PPI	%
Other (please provide details below)	%
<b>Grand Total</b>	<b>100 %</b>

- e) Please provide the percentage of residential mortgages arranged into the following categories

First Time Buyers	%	Re-mortgages	%
Interest Only	%	Repayment	%

- f) Have any of the proposing companies/business' for which cover is required ever arranged PPI

Yes	No

- g)** Please provide details below the procedures used to establish the affordability of any mortgage arranged both during and after any initial discount period

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- h)** Have any of the proposing companies/business' for which cover is required ever arranged/provided advice with regards to self-certification mortgages? 

<b>Yes</b>	<b>No</b>

If **yes**, is it standard practice to confirm to the Lender that the applicants stated income is correct? 

<b>Yes</b>	<b>No</b>

What, if any, evidence of the stated income is retained is on file?

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- i)** How many Equity Release/Home Reversion/Home Income Plans have been arranged? 

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Are all recommended providers of Equity Release/Home Reversion/Home Income Plans members of Equity Release Council and Incorporate SHIP Standards? 

<b>Yes</b>	<b>No</b>

- j)** Have any mortgages been arranged on behalf of any client with terms that extend past the client's planned retirement age? 

<b>Yes</b>	<b>No</b>

**5. CURRENT INSURANCE ARRANGEMENTS**

Insurer	Renewal Date (if applicable)	Premium	Excess	Limit of Indemnity
	_ / _ / _			

**6. CLAIMS AND CIRCUMSTANCES**

- a) Please provide details below of any complaints, claims or circumstances **ever** made against any of the proposing company/business. Continue on additional sheet and provide Complaint register

Date	Summary	Amount Paid

- b) Is any proposing company/business aware, after making appropriate enquires with all principals, employees, self-employed persons and appointed representatives, of any circumstances (not stated above) which may result in any claims being made against the Proposing Entities currently trading, their predecessors in business or any of the present or past Directors/ Partners/Principals? 

<b>Yes</b>	<b>No</b>
- c) Has any proposing company/business any loss during the past ten years as a result of the fraud or dishonesty of any Director/Partner/Principal/employee/self-employed person? 

<b>Yes</b>	<b>No</b>
- d) Has any application for insurance on behalf of any proposing company/business or any of the present Directors/Partners/Principals or, to the knowledge of the proposing company/business, on behalf of their predecessors in business ever been declined or has any such insurance ever been cancelled or renewal refused? 

<b>Yes</b>	<b>No</b>



**7. DECLARATION**

I/we declare that I/we have made a fair presentation of the risk, by disclosing all material matters which I/we know or ought to know or, failing that, by giving the insurer sufficient information to put a prudent insurer on notice that it needs to make further enquiries in order to reveal material circumstances

Signature of Director/Partner/Principal

Name

Date


**8. ADDITIONAL INFORMATION**

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By Submitting this proposal form, you indicate your consent to receiving relevant e-mail marketing communications from us. We will not pass your details to third parties for marketing purposes. If you do not wish to receive such messages, tick here