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Mortgage brokers feel the heat from regulator



31 July 2005 By Louise McBride

Mortgage brokers, more than anyone else working in the financial services sector, felt the heat of the Financial Regulator last year.

According to its annual report, published last week, the regulator inspected 89 mortgage brokers from July 2003 to the end of December 2004.

This represented 40 per cent of all inspections carried out by the regulator. It was the highest number of inspections conducted on any type of financial service provider.

The regulator uncovered two major problems during its inspections - mortgage brokers either failed to clearly tell their clients how much they would charge for their service or were involved in mortgage fraud.

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Mortgage fraud generally occurs when brokers or other third parties fake P60s, employer references, payslips and other documents to help clients get mortgages several times their salary. In the worst cases a mortgage is granted for a property that doesn't exist.

Following the inspection of one mortgage broker, the regulator found that about half of the P60s held by the broker on behalf of its clients were false.

The inspection also uncovered false bank statements and a false quote for building work.

The broker's licence was not renewed.

Although only a minority of mortgage brokers are involved in mortgage fraud, the

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regulator's concern was evident in its annual report. "We have cause for concern regarding the authenticity of documentation being used to support mortgage applications," it stated.

"As the use of false documentation may constitute fraud, which is a criminal offence, this is also a matter for the gardai and we are obliged to report such matters to them."

Investigations

The Garda Bureau of Fraud Investigation (GBFI) is investigating between 40 and 50 cases of mortgage fraud.

"Of these cases, some are for mortgages of between €200,000 and €300,000, some are for top-up mortgages and some are for fictitious properties," said Superintendent John McCann of the GBFI.

McCann said that fewer than five of the cases being investigated were for properties that did not exist. In such cases, the potential loss for the bank could be as much as €300,000 per mortgage, and the perpetrator used the mortgage fraud to steal money.

"We have complaints from a number of financial institutions about mortgage fraud for fictitious properties," he said. "Banks could suffer a lot from this kind of thing."

McCann said the GBFI was investigating a number of brokers as part of its inquiries into mortgage fraud.

"People should be aware that any falsification of mortgage documents is a crime," said Detective Inspector Gerry Giblin, who also works with the GBFI. "They are obtaining a mortgage by deception and this is a crime."

Personal debt

Concerns about mortgage fraud go hand in hand with warnings about the rise of personal debt.

"Institutions should only advance loans where they are confident their customers will have the ability to repay," said Liam O'Reilly, chief executive of the Financial Regulator.

"We are well aware that if conditions change adversely, many people could be severely affected. Sound lending depends on the quality of credit extended, in particular the ability of the borrower to repay the loans both now and in the future should circumstances change," said O'Reilly.

Mortgage fraud, however, prevents lenders from understanding the quality of the credit given or the ability of a borrower to repay the loan.

As well as presenting a risk to the lender, borrowers can fall into serious debt, particularly if they have inflated their earnings to get the mortgage.

There is the risk that house prices could fall and negative equity arise.

If the 'property' for which a loan is given is fictitious, the lender is exposed to considerable losses.

"With increased competition and the growth of mortgage business, it's likely that the documentation in some mortgages applications is not being checked," said Patrick D'Arcy, senior manager of forensic services with RSM Robson Rhodes.

"The major financial institutions have plenty of checks, and certainly have implemented anti-money-laundering measures. However, small mortgage brokers have the difficulty of trying to break into a big market. They may also lack the training and knowledge of law required to spot mortgage fraud."

One of the idiosyncrasies of mortgage fraud is that as long as the mortgage is paid off, it is often the case that no questions are asked.

"If clients can repay the mortgage, there isn't a problem," said Peter Oakes, a partner with Compliance Ireland, which specialises in financial services regulation consulting and training.

"However, people who use mortgage fraud [to borrow several times their salary] could

fall into serious debt if Ireland had a property crisis like that in Britain in the late 1980s.”

Criminal infiltration

Criminals often use mortgages to launder money, according to D’Arcy, who previously worked on money-laundering and criminal investigations with the GBFI.

“Some cases of mortgage fraud involved criminals who provided financial institutions with false P60s and bogus work references to allow them get a mortgage on a property, even though particular criminals would barely have worked in their life,” said D’Arcy.

“These criminals subsequently paid off the mortgage in full within a number of years.”

Those who engage in mortgage fraud will generally apply for standard mortgages to avoid undue attention from a bank or broker.

“Mortgage frauds I’ve encountered tend to turn about €250,000 - nothing too big to draw attention to them,” said D’Arcy.

“About five years ago, the standard mortgage fraud would have been for about €100,000. The mortgages are originally taken out under the normal term - say 20 years - and all of a sudden, they’re paid off over three or five years.”

The Criminal Assets Bureau (CAB) has seized the properties of some well-known criminals under legislation covering proceeds of crime, said D’Arcy. This legislation allows the Garda to confiscate assets bought by criminals using money generated from crime.

Criminals often use another person’s name to purchase a property to conceal mortgage fraud or money-laundering from the CAB, said D’Arcy.

“The criminal buys the property in another person’s name, using that person’s name as a front for the money and supplying the person with a false P60 and so on,” he said.

“In these cases, the assistance of a broker to the criminal would be a great asset.”

Collusion

In some cases, criminals obtain mortgages for fictitious properties using the assistance of solicitors, accountants or brokers. While some professionals may be unsuspecting, others turn a blind eye to the mortgage fraud or actively participate in the crime. New market entrants are most vulnerable to mortgage fraud.

“A number of properties were fraudulently mortgaged in or around the border a few years ago,” said D’Arcy.

“The bank that lost out was a new player who wasn’t aware of the exact property location or addresses. The lender ended up with certification from third parties who were possibly in on the scheme.

“It’s quite easy to use fraudulent material to set yourself up as a company. You can then generate false P60s and provide other third-party professional indemnities to say you visited the [fictitious] property, it’s of sound structure and so on.”

D’Arcy said several parties, including accountants, solicitors and auctioneers, have been searched during money-laundering and other CAB investigations. Some have been convicted of money-laundering offences.

Last October, a Belfast solicitor was jailed for eight months for failing to inform the British authorities that he suspected his client was using a property transaction to launder money.

The client bought a stg£105,000 (€152,000) property with a cash deposit of stg£70,250 (€102,000).

However, criminals will generally target unsuspecting rather than unscrupulous professionals, said D’Arcy.

“Criminals will target people who are prey to the extra business because they may be under pressure financially,” he said. “Similarly, some people may be too busy to be

able to put the extra checks through.”

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