To who it my concern,

My name is Daniel Gold, I own and operate a small mortgage broking firm in Toorak VIC, and this is my personal response to the proposed mortgage broker best interests duty and remuneration reforms.

The concept of a best interests duty is sound in theory, but its practical implementation will not be straightforward.  My fear is that more onerous compliance requirements on brokers will force more consumers back to the banks directly, and this has shown to weaken competition, comprise client outcomes/ experiences, and reduce credit activity.

When formulating legislation around a best interests duty, please be clear on two key points:

1. Nearly all consumers would prefer a competitive interest rate and great experience, rather than the cheapest possible interest rate, and a terrible experience.
2. Comparing lenders on i) products; and ii) pricing, is a major oversimplification of how the business of mortgage broking actually works:
	1. An under-appreciated skill of brokers is in also understanding the credit policies of each lender, and how to work around them as they relate to each clients’ unique set of circumstances.
	2. There is a major human element and subjectivity involved with getting a loan approved – it involves an individual’s ‘interpretation’ of complex financial information, and then positioning/ negotiation – it is very rarely black and white.

It becomes more difficult comparing loan options side by side in a comparison table when you have to take into account these subtle but critical overlays.

Please appreciate that even two people at the same bank can interpret the same loan request completely differently. This speaks to the complexity of mortgage finance, and the challenges associated with delivering positive outcomes/ experiences for consumers.

The worst client outcome/ experience in this industry is a drawn out process which at the end results in a declined or compromised application.

If the potential savings of researching a fourth or fifth lender are marginal, I have found clients prefer certainty and efficiency on nearly every occasion.

Nevertheless we still discuss requirements/objectives/options with all clients in detail, and then we document this in meeting notes and an email summary to the client after our meetings.

Here are 20 examples of slightly complex, but no uncommon scenarios, where:

1. It is very difficult or impractical to provide borrowers with a large number of confident options; and
2. Where the very cheapest interest rate is definitely *not* the clients’ #1 priority (it’s still important, but not #1).

**20 case study examples**, to demonstrate complexity in relation client scenarios, and how they relate to a lenders’ credit policy:

1. Client is a 25% JV partner in a positive cash flow property investment, servicing can’t be evidenced if you take 25% of the income but 100% of the debt
2. Client earns income in Malaysian ringgit, this is not an approved currency at all banks with an FX policy, but it can be considered on a ‘case by case’ basis
3. Client wishes to obtain a $2,000,000 ‘cash-out’ to buy an investment property, but he hasn’t yet identified the property, and preference is to secure the money upfront
4. Clients receive trust distributions from male applicants’ father, they wish to use this income to improve serviceability
5. Client is a real estate agent earning 100% commissions, he wishes to apply for a loan in September and payslips therefore only show 2 mths YTD income
6. Client has strong income but has credit scored poorly due to multiple credit enquiries over the past 12 months
7. Client has purchased a property which is dual zoned (commercial/ residential) – she has gone to three banks none of whom can give her a straight answer
8. Client has a profitable business which he operates through a discretionary family trust, in previous years he has distributed part of his profits to his parents, now he needs this income to demonstrate serviceability
9. Client helped his child years ago by providing an income guarantee for his loan, it has never been called on is no longer required
10. Client has recently been promoted to partner at a law firm, however he has now moved from PAYG to distributions into family trust (where he pays his own super and tax)
11. Clients recently converted their business from sole trader to a trust structure with corporate trustee, underlying earnings have not changed but new arrangement is only 4 months old
12. Client has recently changed employers from large corporate to work in his family business, salary has increased by 30%
13. Client wishes to obtain a $1,900,000 Interest Only home loan in order to retain access to all his cash and optimise loan structure for gearing and tax benefits
14. Self employed client receives income on short term PAYG contracts, tax returns therefore show 20 employers, and beyond this she also invoices other clients via ABN
15. Client has received consistent bonuses for the last 5 years, however he has now changed employers and only received one bonus pro-rata for 6 months from new firm
16. Self employed client has a negatively geared investment property in a trust, needs negative gearing benefits to be allowed in servicing to gain approval
17. Client is a doctor and recently moved from PAYG to consulting work via new ABN, income has increased but we only have 1 x BAS to evidence income
18. Client receives tax free income via a 2 year university scholarship, she wishes to use this income for servicing, knowing that she can earn higher income after graduation
19. Client wishes to provide an income guarantee to his wife for asset protection, he wants his income to be acknowledged in servicing, but not be on the loan or Title
20. Client has income from a share portfolio partly owned in his personal name, and partly owned in an investment trust, the balances of which fluctuates, and where income for servicing relies on franked and unfranked dividends, plus franking credits (across the group)

Oftentimes it takes several days or even weeks to ‘workshop’ these types of scenarios properly, and even then the best we can hope for is ‘high level support’ for a scenario only.  This is because no lender can provide certainty, until a full application is properly submitted, and then fully/ manually assessed.

Yet the clients are relying on us for certainty, in terms of getting their loans approved, and being able to deliver a positive experience. **This is the key disconnect, and why comparing home loans is significantly more complex than comparisons of other products.**

So if a reliable solution can be identified, and the interest rate and product offering are both suitable and competitive, then our experience is that clients will gladly proceed down this path, rather than waiting several more days or weeks for more options, which may only have marginal benefits (e.g. a few hundred dollars of savings), and where the likelihood of a smooth/ positive outcome is heavily compromised (because working with untested people at untested banks is terribly risky).

In any of the above case study examples, imagine a world where there are less mortgage brokers (if it becomes too difficult or costly to operate, it’s only natural to assume more brokers will devote their energies elsewhere).

More clients would have to make their own enquiries to individual banks. This would be inefficient as they don’t have experience or expertise in lending, nor do they have the right relationships internally at the relevant banks.

In many cases clients would get 3-5 weeks through the process, and then be let down.  At scale, this would lead to reduced credit activity, which would have a negative impact on the Australian economy.

**So what is the answer?**

The challenge is going to be compliance, monitoring and oversight. How will brokerage businesses be protected if clients value a reliable/ efficient service, and a great deal, but then there’s an alternative loan product available somewhere which presents (on paper) as being cheaper?

Perhaps as brokers we could have the clients sign a document which provides a summary of what financial information is being used in the application, reconfirms the clients’ requirements and objectives, and then outlines how the recommended approach meets those.

If this could be done in an efficient manner, then it would add a layer of protection for consumers, without making the economics of running a mortgage broking practice unviable. Mortgage brokers are already earning c. 15% less in CY2019 as a result of the remuneration changes with upfront commissions paid on drawdowns or ‘net of offset’ (rather than on loan limits), and compliance requirements are already more onerous than they ever have been.

**In summary**

Acting in the best interests of consumers is absolutely the right thing to do, and most brokers know that in a word of mouth/ referral driven industry it’s the single best strategy for building a successful business.

We welcome changes to elevate the professionalism of the industry, however new legislation can’t be designed for a simple/ commoditised mortgage market, where all clients are the same, and where all lenders can easily approve all deals.

How it works in reality is a lot different, and the fact it is so complex is one of the main reasons why mortgage brokers are the channel of choice now for the majority of consumers.

Australia cannot afford to weaken the broker channel.  Not so that brokers can keep their jobs, more so because without brokers consumers are driven to the big banks directly – competition is reduced, client outcomes/ experiences are compromised, and credit activity will slow.

Thank you for your consideration.

Daniel Gold