

## **Mortgage lenders and financial references**

### **Guidance as at 13/03/2017**

- Scope of guidance and general considerations
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- Lenders which will accept financial references from CIOT and ATT members
- HMRC agreement with the Council of Mortgage Lenders re SA302s
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#### **Scope of guidance and general considerations for references**

Members are often asked to provide a form of financial reference on behalf of their clients and may wish to assist. The scope of this guidance is limited to references that can be provided from factual information in a member's possession, not additional assurance work (e.g. a form of limited scope audit procedures) that some members may be qualified to perform by virtue of their membership of bodies other than the CIOT or ATT.

The purpose of this guidance is to alert members to some practical issues and risks associated with giving references, and to provide specific guidance on references requested by the leading mortgage lenders. This guidance does not consider Statements of Net Worth for consumer credit purposes under the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (formerly the Consumer Credit (Exempt Agreements) Order), which must be signed by members of ICAEW, ICAS, ICAI, ACCA, CIMA, CIPFA or a comparable overseas professional body of accountants. CIOT and ATT members who are not also members of the above professional bodies of accountants are not permitted signatories.

As a general matter, members should recognise the possible risks of providing references, even where they take the opportunity to disclaim liability to the person to whom the reference is provided, as in the suggested template letter given below.

A member might undertake a duty of care to the lender and/or client when financial references are provided. The existence of a disclaimer is relevant but not determinative to the question of whether a member has incurred a duty of care to third parties who place reliance on the reference as part of their decision making process. It is therefore important that members use clear and reasonable disclaimers and that they should take care only to refer to known statements of fact that they are able to verify, such as income reported on filed tax returns. If members stray beyond verifiable fact, the possibility that they might extend their duty of care to the third party could be increased. In particular, members should be cautious of giving any reference or answering any inquiry asking for confirmation of net income, or net assets, because they are unlikely to be able to identify the full extent of outgoings or liabilities of a particular client.

#### **Charging for Financial References**

Members should not seek fees from the third parties to whom references are addressed.

There is no legal reason why members should not make a charge **to their client** for the time spent on work needed to provide a reference, and we acknowledge that with lenders now requiring increasing amounts of information in order to approve loan and mortgage applications a considerable amount of professional time can be taken up in understanding the nature and extent of the third party inquiry and assembling the relevant information and members may consider an appropriate charge to the

client. While the CIOT and ATT do not attempt to regulate the rate or scope of fees members seek to charge their clients, it is good practice to agree the fees with your client upfront.

Members should ensure that their engagement letters or other similar communications (e.g. if an engagement letter contains provisions for the scope of additional services to be agreed separately) set out the nature and scope of the work and the additional fees to be charged<sup>1</sup> and it is recommended that they make reference to the relevant engagement letter when providing the assistance. It may be that the provision of financial references is covered within the definition of general services in a member's Professional Indemnity insurance but the member should check, with the insurer if necessary, that this is the case before supplying this service so that appropriate cover is in place<sup>2</sup>. Members are reminded that when preparing engagement letters they may seek to limit liability to their clients and exclude liability to third parties as set out in the engagement letter guidance.

### Specific considerations for Mortgage application references

Members are often asked to assist clients with their mortgage application by providing a financial reference (see example reference at end of this document). Lenders keep a list of professional qualifications which they recognise for this purpose. We have concentrated on getting confirmation of recognition of the CTA and ATT qualifications from the Top 10 lenders by volume (although other lenders may recognise the qualification it has not been possible to obtain responses from all of the 70 plus lenders we contacted). Please note that the names listed in the table below may include a number of lenders eg Lloyds Banking Group will include Scottish Widows. If a lender on this list does not recognise your qualification when it has confirmed to us that it will please let us know by e mailing [hbrehcist@ciot.org.uk](mailto:hbrehcist@ciot.org.uk) or [jmellor@ciot.org.uk](mailto:jmellor@ciot.org.uk).

| <b>TOP TEN LENDERS</b>                                     |  |   |
|--|--|---|
| <b>Lender</b>  | <b>ACCEPT REFERENCES FROM CIOT MEMBERS</b> | <b>ACCEPT REFERENCES FROM ATT MEMBERS</b> |
| Barclays   | Yes  | Yes                                       |
| Coventry   | Yes  | No  |
| HSBC   | Yes  | Yes                                       |
| Lloyds Banking Group                                       | Yes  | Yes                                       |
| National Australia Bank (Yorkshire Bank & Clydesdale Bank) | No   | No  |
| Nationwide   | Yes  | Yes                                       |
| RBS  | Yes  | Yes                                       |
| Santander  | Yes  | Maybe per Santander                       |

<sup>1</sup> See engagement letter guidance at <http://www.tax.org.uk/professional-standards/engagement-letters> or <http://www.att.org.uk/professional-standards/general-guidance>

<sup>2</sup> See Professional Indemnity Insurance regulations and guidance at <http://www.tax.org.uk/professional-standards/professional-rules/professional-indemnity-insurance-regulations> and <http://www.att.org.uk/professional-standards/professional-rules/professional-indemnity-insurance-regulations>

|                            |  |  |
|----------------------------|--|--|
|                            |  | <p>“We do of course appreciate that certain companies may be exempt from the legal requirement to have their accounts audited, and as such those companies may wish to have their accounts produced by members of the Association of Taxation Technicians.</p> <p>However where these are prepared and submitted in support of a lending application, all cases are looked at on their own merits and therefore, the Bank reserves it’s rights to make further enquiries as it seeks fit to satisfy itself that the information provided is a fair reflection on the trading performance of the business which may or may not require accounts to be prepared by a certified or chartered accountant.”</p> |
| Virgin Money               | No   | No   |
| Yorkshire Building Society | <p>Not on approved list but maybe. Per YBS “Please note that CIOT and ATT not being on that list does not mean we would not accept references from your members, rather a customer using one of your members may be required to provide additional information to support and evidence their income”.</p> <p>We have written back to ask if there is any additional information we can provide so that members can be added to the approved list</p> | <p>Not on approved list but maybe. Per YBS “Please note that CIOT and ATT not being on that list does not mean we would not accept references from your members, rather a customer using one of your members may be required to provide additional information to support and evidence their income”</p> <p>We have written back to ask if there is any additional information we can provide so that members can be added to the approved list</p>  |

Frequently the mortgage lender will ask for form SA302 as well as, or instead of, a financial reference. HMRC and the Council of Mortgage Lenders have worked together to agree an approach which should make the provision of SA302s easier and quicker. Further details are below. In all cases you should check the individual requirements of the mortgage lender in relation to your client.

### **HMRC and Council of Mortgage Lenders (CML) agreement**

Following the introduction of stricter rules for mortgage applications many lenders have insisted on having confirmation of income backed up by sight of form SA302. Historically, form SA302 was not downloadable from the HMRC online system and the only solution was to phone HMRC and request a copy which inevitably caused delays. In December 2015 HMRC announced that they will no longer fax forms SA302.

HMRC has been working with the CML to find a solution to this and agreement was reached in 2016. A list of those lenders currently participating in this agreement is set out below; if you find a lender on the list is not adhering to the agreed procedure please let us know.

As evidence to support mortgages, lenders will ask for both the following online documents:

- the Tax Calculation
- the Tax Year Overview

For those using HMRC software both documents can be printed from the HMRC software.

If you use third party software the tax calculation will have to be printed from that software and the Tax Year Overview from the SA Online account. Note that HMRC will still provide paper copies on request.

In support of these changes HMRC have issued three documents which are not available on the Gov.uk website but are reproduced at the end of this guidance. They are:

- HMRC guidance for Lenders - which helps lenders to understand what documentation self-assessment taxpayers can provide about their income and how to interpret it.
- Printing your client's HMRC online Tax Calculation and Tax Year Overview – which provides agents with the details on how to print a client's Tax Calculation (where HMRC software is used) and how to print a client's Tax Year Overview. HMRC's understanding is that lenders will be providing copies of this to agents.
- Printing copies of HMRC online Tax Calculation and Tax Year Overview – which sets out for individuals the steps that they need to go through to print documents.

HMRC has now produced a list of lenders who have signed up to the new procedure as listed below, The Council of Mortgage lenders is still working to get all lenders and brokers to sign up to the new process. If you come across a lender or broker who is not signed up or who appears on the list below but is not operating the new procedure ask them to contact the Council of Mortgage Lenders but also tell us by emailing [hbrehcist@ciot.org.uk](mailto:hbrehcist@ciot.org.uk) or [jmellor@ciot.org.uk](mailto:jmellor@ciot.org.uk). If it is a broker please also provide the name of the lender they are using.

The following lenders have told HMRC that they are operating the new process as at 22 February 2017:

|                               |                              |
|-------------------------------|------------------------------|
| Aldermore                     | Bank of Ireland              |
| Bank of Scotland              | Barclays                     |
| Blemain Group                 | Birmingham Midshires         |
| Britannia                     | Cheltenham & Gloucester      |
| Cheshire Mortgage Corporation | Clydesdale & Yorkshire Banks |
| Co-operative Bank             | Coventry Building Society    |
| Cumberland Building Society   | Danske Bank                  |
| Darlington Building Society   | Ecology Building Society     |
| Furness Building Society      | GE Money Home Lending        |
| Godiva Mortgages Ltd          | Halifax                      |
| HSBC                          | Halifax Bank of Scotland     |
| Holmesdale Building Society   | Intelligent Finance          |
| Jerrold Holdings              | Kensington Mortgages         |
| Leeds Building Society        | Lloyds Bank                  |
| Loughborough building Society | Marsden Building Society     |

Mortgages Plc  
Nationwide Building Society  
Newcastle Building Society  
Platform  
Precise Mortgages  
Saffron Building Society  
Scottish Building Society  
St Andrews Group  
Teachers Building Society  
Tipton & Coseley Building Society  
Vernon Building Society  
Wave Lending  
Woolwich

National Counties Building Society  
National Westminster Bank  
Nottingham Building Society  
Post Office Ltd  
Royal Bank Of Scotland  
Santander  
Scottish Widows  
TSB  
Tesco Bank  
Together Money  
Virgin Money  
West Bromwich Building Society

See also the list on the HMRC website for up to date details:

<https://www.gov.uk/government/publications/mortgage-providers-and-lenders-who-accept-a-sa302-tax-calculation-or-tax-year-overview>

### **Example financial reference letter**

An example of a financial reference letter given by a member in support of a mortgage application for a client is set out below. Please note that mortgage applications offer opportunity for fraud and therefore members should carefully check the reasonability of all financial references before providing them and never be associated with the presentation of facts that are known or believed to be incorrect or misleading.

Dear Sirs

Mortgage application by ..... and application reference number.....

Our above named client has asked us to provide a reference in support of a proposed loan by you of £..... repayable by monthly instalments of £..... over .... years.

We have been engaged by our client to prepare his self-assessment returns for his approval before we submit them to HM Revenue & Customs and have acted in this capacity for ..... years. These returns are based on the information provided to us by our client.

Our client's net income in the year ended 5 April .....after charging all business costs as identified in their income tax return was £.....

*[Details of earlier years may be added as appropriate.]*

Please note that we make no assessment of our client's continuing income or future outgoings.

This reference is provided in good faith and the above statements are made to the best of our knowledge and belief, and is not a substitute for any other reviews or enquiries you should make. We are providing this letter in strict confidence on the basis that we do not accept or assume responsibility, duties or obligations to you or any other party who may seek to rely on this reference. Any use you wish to make of the information provided is therefore entirely at your own risk. We have no responsibility to update the contents of this letter for events occurring after its issue.

Yours faithfully

*Member's name*

*Chartered Tax Adviser/ Taxation Technician*