Cynulliad Cenedlaethol Cymru / National Assembly for Wales
Y Pwyllgor Cyfrifon Cyhoeddus / Public Accounts Committee
Ymchwiliad i drefn reoleiddio Cymdeithasau Tai / Inquiry into Regulatory oversight of Housing Associations
Ymateb gan Gyngor Benthycwyr Morgeisi / Evidence from the Council of Mortgage Lenders

Introduction

1. The CML is the representative body for the residential mortgage lending industry that includes banks, building societies and specialist lenders. Our 139 members currently hold around 97% of the assets of the UK mortgage market. In addition to home ownership, CML members also lend to support the social housing and private rental markets across the UK. We welcome the opportunity to provide this submission to the call for evidence by the Public Accounts Committee of the Assembly into the regulatory oversight of housing associations.

2. The CML has worked constructively with the Welsh Government on measures to improve the regulation of housing associations over a number of years, including from the time of the Essex Review which led to the introduction of a new co-regulatory approach in 2011. This approach has undergone further positive change in the intervening years, most recently with the development of a graded regulatory judgement matrix, to be introduced from early 2017. We have provided specific comments below on matters the Committee is considering as part of its inquiry.

Effectiveness of the current regulatory framework

3. The current regulatory framework is effective and improving. This is especially so with the planned introduction of a new graded regulatory judgements matrix. The publication of graded judgements should, subject to sufficient resources for implementation and enforcement, provide a point

of calibration against which lenders can measure their own assessment of an association. This is lacking in the approach to-date, as the current narrative report does not give firm conclusions or judgements on the part of the regulator. Those looking to rely on the narrative report are left to draw their own conclusions. The new judgement approach should address this. It is absolutely the right direction of travel for where the sector is now – in the context of increasing complexity; increasing development activity (and associated risk) and the backdrop of ONS reclassification.

4. We look forward to the provision of regulatory assessments in the new form, with graded judgements. We expect that, until these are available, there might still be some uncertainty as to how robust regulation will be and how the sector will respond to it.

5. The effectiveness of the framework comes down to how and when the regulator intervenes in problem cases or where an association fails. Key to this are issues of resources. The regulatory response to some recent "complex cases" points to areas where available skills, expertise and resource may have struggled to keep pace with the situation. The recent appointment of a former senior banker with sector experience in the regulation team is very welcome. Funders directly involved in recent complex cases will be able to offer their own observations on the experience. The sector will benefit from the forthcoming publication of the regulator's "lessons learned" report.

Effectiveness and quality of governance

6. The quality of governance and its effectiveness is varied. This is to be expected in a diverse sector with a range of organisations of different size, scale, location, resources (board skills etc) and development appetite. The work of the regulator, tenant organisations and Community Housing Cymru,

including through its new Code of Governance, help to provide the required environment for good governance to develop and improve in all housing associations across Wales.

Effectiveness of current regulatory regime in managing and mitigating sector-wide risks

7. It is for boards to manage and mitigate the effect of sectoral risks in their organisations. The regulator helps to identify these in its published sector risk profile, which is periodically updated. Where appropriate, Welsh Government and the regulator can act in areas that are likely to impact the sector as a whole. For example: responding to the ONS classification decision; the impact of welfare reform changes, such as LHA caps, and the wider impact of the roll-out of Universal Credit. Other areas that bring sectoral risk relate to the operation of wider financial and funding markets. In this respect, we are uncertain as to the level of wider market intelligence and availability of experience of markets within the regulation team, and what external advice is sought and taken on this. As referred to above, the recent appointment of a former senior banker with substantial experience as a funder is a strong step in the right direction.

8. In the context of responding to complex cases that might include the failure of an association, we suggest it would be appropriate for the regulator and government to consider the extent to which the sectoral risk of contagion from the failure of a single association might be mitigated through measures such "living wills" and asset registers.

Effectiveness of the co-regulatory approach in practice

9. From the CML perspective, we are encouraged by the level of proactive engagement we have with government, the regulator, CHC and other key

stakeholders. This includes our work with the Advisory Group that supports the new independent Regulatory Board. Individual lenders, with their own direct experience with their borrowers and the regulation team, will be best placed to offer their own views on co-regulation.

10. For both the CML and lenders, there are still some uncertainties about the journey to regulatory intervention and the powers that would be used and when. We expect the new judgements matrix and guidance around it should provide further clarity here, but we suggest a candid sharing of lessons learned on some of the recent complex cases would still be helpful in avoiding potentially unnecessarily sub-optimal outcomes.

Remuneration of senior executives in HAs

11. The issue of paid executives is currently under consideration by the Regulatory Board and its Advisory Group. In our view, this will be a matter for individual board decision, subject to there being effective identification and management of any instances of actual or perceived conflict of interest. Paid executives should be an option for boards, particularly if there are challenges for the particular association in attracting or retaining the skills and experience needed for excellent governance.

12. We suggest that the issue of paid executives on boards raises again the wider issue of remunerated board members (who are not executives). This had been considered by government previously, but not taken forward. Our view is that the remuneration of board members should be an option for associations if they feel it would be of benefit for their particular organisation in attracting and retaining experienced and skilled individuals needed for excellent governance.

13. The economic, strategic and operational context for Welsh RSLs is becoming ever more demanding and complex, and the chairs in particular of some of these bodies may have complex businesses with >£100m of external borrowings and highly onerous financial, legal and other responsibilities. In our view, it will become a tougher challenge to recruit voluntary board members to this sector. For this reason, we believe that it is timely for the issue of remuneration of board members to be reconsidered.