

• ACTING FOR BANK AND BORROWER – A CHANGE IN THE CONDUCT RULES

Until recently, banks lending on property in England and Wales would also instruct the borrower's solicitor in all but high value transactions.

Following a change in the conduct rules for solicitors at the end of 2011, a solicitor may only act for both the bank and the borrower in very limited circumstances.

THESE CIRCUMSTANCES ARE WHERE:

- the mortgage is a standard mortgage provided in the normal course of the lender's activities, where a significant part of the lender's activities consists of lending and the mortgage is on standard terms;
- the property is to be used as the borrower's private residence;
- the lawyer is satisfied that it is reasonable and in the client's best interests for the lawyer to act; and
- the certificate of title required by the lender is in the form approved by the Law Society and the Council of Mortgage Lenders.

The effect of this change, which will have a particular impact on Channel Island lenders, means that banks should instruct their own solicitor in the following circumstances:

- the loan is to an overseas company or non UK resident individual;
- the mortgage is over commercial property;
- the mortgage is over the borrower's investment property; or
- the borrower can negotiate the terms of the mortgage.

HOW CAN COLLAS CRILL HELP?

Collas Crill offer banks an independent service with a dedicated UK property team experienced in acting for Channel Island based lenders granting mortgages over properties in England and Wales.

With a fixed pricing structure, Collas Crill can offer Channel Island banks certainty of costs from the outset of the transaction.

FOR MORE INFORMATION,
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