

Mortgages and Home Finance: Conduct of Business Sourcebook

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Chapter 1

Application and purpose

1.1 Application and purpose

Application

1.1.1

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MCOB applies as described in this chapter.

Purpose

1.1.2

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The purpose of this chapter is to set out to whom, for what activities, and within what territorial limits the *rules, evidential provisions* and *guidance* in MCOB apply.

1.2 General application: who? what?

- 1.2.1** **R** (1) This sourcebook applies to every *firm* that:
- (a) carries on a *home finance activity* (subject to the business loan and loans to *high net worth mortgage customers* application provisions); or
 - (b) *communicates or approves a financial promotion of qualifying credit, of a home purchase plan, of a home reversion plan or of a regulated sale and rent back agreement.*
- (2) Where a *firm* has outsourced activities to a *third party processor*, any rule in MCOB which requires the *third party processor*, when acting as such, to disclose its identity to a *customer* must be read as requiring disclosure of the identity of the *firm* (or *appointed representative*, as appropriate) which is taking responsibility for the acts and omissions of the *third party processor* when carrying on the outsourced activities.
- 1.2.1A** **G** Firms which outsource regulated activities are reminded of the guidance on outsourcing in ■ SYSC 3.2.4 G and ■ SYSC 8.
- Firm types and the home finance activities**
- 1.2.2** **G** (1) This sourcebook applies to activities carried out in respect of *regulated mortgage contracts, equity release transactions, home purchase plans, and regulated sale and rent back agreements*. Together, these products are referred to as *home finance transactions*.
- (2) *Lifetime mortgages and home reversion plans* are together referred to as *equity release transactions*.
- (3) The application of most of this sourcebook is expressed by reference to four types of firm: lenders/providers, administrators, arrangers, and advisers. Arrangers and advisers are together referred to as intermediaries. This includes those firms that provide business loans to customers under a regulated mortgage contracts (see ■ MCOB 1.2.3 R to ■ MCOB 1.2.9 G). A single firm may fall into more than one of these types. PERG 4 contains detailed guidance on *regulated mortgage activities* and PERG 14 contains detailed guidance on *home purchase activities, reversion activities and regulated sale and rent back activities*.

Business loans and loans to high net worth mortgage customers: application of MCOB

1.2.3	R	<p>In relation to a <i>regulated mortgage contract</i> for a business purpose</p> <p>(1) <i>MCOB</i> applies if the <i>customer</i> is not a <i>large business customer</i>; and</p> <p>(2) if <i>MCOB</i> applies, a <i>firm</i> must either:</p> <p>(a) comply with <i>MCOB</i> in full (disregarding the tailored provisions for <i>regulated mortgage contracts</i> for a business purpose in the remainder of <i>MCOB</i>); or</p> <p>(b) comply with <i>MCOB</i> in full, but taking account of all those tailored provisions, including ■ MCOB 1.2.7 R.</p>									
1.2.3A	R	<p>In relation to a <i>regulated mortgage contract</i> with a <i>high net worth mortgage customer</i>, a <i>firm</i> must either:</p> <p>(1) comply with <i>MCOB</i> in full (disregarding the tailored provisions for <i>regulated mortgage contracts</i> with <i>high net worth mortgage customers</i> in the remainder of <i>MCOB</i>); or</p> <p>(2) subject to ■ MCOB 1.2.9C R, comply with <i>MCOB</i> in full, but taking account of all those tailored provisions, including ■ MCOB 1.2.7 R.</p>									
1.2.3B	R	<p>Where any provision of <i>MCOB</i> is expressed to apply in respect of a <i>high net worth mortgage customer</i>, it applies in respect of joint borrowers (or potential borrowers) if one of them satisfies that definition in his own right.</p>									
1.2.3C	G	<p>In relation to an <i>MCD regulated mortgage contract</i> with a <i>high net worth mortgage customer</i>, to comply in full with <i>MCOB</i>, a <i>firm</i> does not need to comply with those provisions in <i>MCOB</i> that are expressed not to apply to <i>MCD regulated mortgage contracts</i>.</p>									
1.2.4	G	<p>The tailored provisions are those in the sections 'Business loans and loans to high net worth mortgage customers: tailored provisions' set out in each relevant chapter.</p>									
1.2.4A	G	<p>Certain other provisions of <i>MCOB</i> apply in all cases in respect of <i>high net worth mortgage customers</i> or of transactions which are solely for a business purpose. The application of the tailored and other provisions for <i>high net worth mortgage customers</i> and transactions for a business purpose are summarised in the table at ■ MCOB 1.2.4B G.</p>									
1.2.4B	G	<table><tr><th colspan="3">Table of provisions applicable to business loans and high net worth mortgage customers: this table belongs to MCOB 1.2.4AG</th></tr><tr><th>Provisions</th><th>Tailored provisions or applicable in all cases?</th><th>For business loans only, are the provisions applicable to all business loans, or only where the loan is solely for a business purpose?</th></tr><tr><td></td><td></td><td></td></tr></table>	Table of provisions applicable to business loans and high net worth mortgage customers: this table belongs to MCOB 1.2.4AG			Provisions	Tailored provisions or applicable in all cases?	For business loans only, are the provisions applicable to all business loans, or only where the loan is solely for a business purpose?			
Table of provisions applicable to business loans and high net worth mortgage customers: this table belongs to MCOB 1.2.4AG											
Provisions	Tailored provisions or applicable in all cases?	For business loans only, are the provisions applicable to all business loans, or only where the loan is solely for a business purpose?									

Various of the provisions in MCOB 4.7A and MCOB 4.8A	Applicable in all cases	Applicable only where loan is solely for a business purpose
MCOB 4.9	Tailored	Applicable to all business loans
MCOB 5.7	Tailored	Applicable to all business loans
MCOB 6.7	Tailored	Applicable to all business loans
MCOB 7.7	Tailored	Applicable to all business loans
Various of the provisions in MCOB 11.6	Applicable in all cases	Applicable only where loan is solely for a business purpose
MCOB 12.6	Tailored	Applicable to all business loans
MCOB 13.7	Tailored	Applicable to all business loans

- 1.2.5** G
- (1) In order for a loan to fall within the definition of a *regulated mortgage contract*, at least 40% of the total of the land to be given as security must be used as or in connection with a dwelling. Therefore, the variation in approach provided for in ■ MCOB 1.2.3 R(2) can only apply where the loan being used for a business purpose is secured against a property at least 40 per cent of which is used as a dwelling. It cannot apply to a loan secured on property that is used solely for a business purpose.
- (2) Whether a *regulated mortgage contract* is, or is solely, for a business purpose will be a matter of fact to be determined by a *firm* (in accordance with ■ MCOB 1.2.9D R where applicable) depending on the individual circumstances of each case. In the FCA's opinion, a *regulated mortgage contract* secured, for example, on the borrower's own home, but used to finance the purchase of a single buy-to-let property will not be for a business purpose.

- 1.2.6** G
- In determining whether a *customer* is a *large business customer* for the purposes of ■ MCOB 1.2.3 R(1), a *firm* will need to have regard to the figure given for the *customer's* annual turnover in the *customer's* annual report and accounts or business plan. In addition, a *firm* may rely on information provided by the *customer* about the annual turnover, unless, taking a common-sense view of this information, it has reason to doubt it.

Business loans and loans to high net worth mortgage customers: additional requirements if tailored route is used

- 1.2.7** R
- In relation to a *regulated mortgage contract* for a business purpose or with a *high net worth mortgage customer*, if a *firm* has opted for the tailored route, it must adopt the following modifications to the sourcebook:
- (1) substitute an alternative description of the facility provided under the *regulated mortgage contract* for 'mortgage' where that term is used in any disclosure;

1.2.8

G

- (2) substitute the term 'illustration' for 'Key facts illustration' when opting to use the tailored business loans or loans to *high net worth mortgage customers* rules in ■ MCOB 4.9, ■ MCOB 5.7, ■ MCOB 6.7 or ■ MCOB 7.7; and
- (3) limit disclosure to facilities provided under the *regulated mortgage contract*.

1.2.9

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The disclosure *rules* in MCOB place particular emphasis on the description of borrowing. Where the *regulated mortgage contract* is for a business purpose or with a *high net worth mortgage customer* who is not a *consumer* under an MCD *regulated mortgage contract*, a *firm* should reflect this emphasis in any disclosure by first describing any borrowing before addressing the other facilities provided under the *regulated mortgage contract*.

1.2.9A

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Home purchase plans

For detail of the tailored provisions applying to *home purchase plans*, see the section on 'home purchase plans' set out in each relevant chapter.

1.2.9B

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Provisions for professional customers

Certain provisions of ■ MCOB 4.7A and ■ MCOB 4.8A apply in respect of *professional customers*. Where they apply, they provide greater flexibility for *firms*.

1.2.9C

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Requirement for evidence before treating a loan as being solely for business purposes, or a customer as a high net worth mortgage customer or a professional customer

A *firm* may not treat a *customer* as being a *high net worth mortgage customer* for the purposes of MCOB unless either:

- (1) it is aware, from evidence already in its possession as a result of a business relationship between it and the *customer*, that the *customer* satisfies the definition of *high net worth mortgage customer*; or
- (2) it has first obtained a written statement which:
 - (a) confirms that the *customer* satisfies the definition of *high net worth mortgage customer*;
 - (b) specifies the period for which it is valid, which includes the time when the *regulated mortgage contract* is entered into; and
 - (c) is signed by a suitably qualified professional adviser of the *customer* who is not an *associate* of the *firm* or of the *customer*.

- 1.2.9CA** **G** Where the *regulated mortgage contract* is a *legacy CCA mortgage contract*, the *firm* should not treat the *customer* as a *high net worth mortgage customer* for the purposes of *MCOB* unless it is aware from evidence in its possession that the *customer* satisfied the definition of *high net worth mortgage customer* at the time the contract was entered into.
- 1.2.9D** **R** A *firm* must not treat a loan as being solely for a business purpose for the purposes of *MCOB* unless it has reviewed a business plan provided by the *customer* which provides credible evidence that that is the case.
- 1.2.9E** **R** A *firm* must not treat a *customer* as being a *professional customer* for the purposes of *MCOB* unless it has credible evidence that the *customer* satisfies the definition.
- 1.2.9F** **R** A *firm* must keep the evidence in ■ **MCOB 1.2.9CR (1)** and ■ **MCOB 1.2.9ER**, the business plan in ■ **MCOB 1.2.9DR** and the written statement in ■ **MCOB 1.2.9CR (2)** for not less than three years from the date on which it was obtained or, if later, used to satisfy ■ **MCOB 1.2**.
- Authorised professional firms**
- 1.2.10** **R** *MCOB* does not apply to an *authorised professional firm* with respect to its *non-mainstream regulated activities* except for ■ **MCOB 3A** (Financial promotions and communications with customers).
- 1.2.11** **G** *Authorised professional firms* should be aware of the following:
- (1) ■ **PROF 5** (Non-mainstream regulated activities); and
 - (2) **MCOB 3A.1.3R** (Authorised professional firms) and the exception in article 55 of the *Financial Promotion Order* (Communications by members of the professions) which applies in relation to *financial promotion of qualifying credit* or of a *home reversion plan* of *authorised professional firms* under **MCOB 3A.1.9R(2)** (Exemptions).
- Pre-contractual arrangements by a home finance provider**
- 1.2.12** **R** In *MCOB* the activities of a *home finance provider* which would be *arranging* but for article 28A of the *Regulated Activities Order* (Arranging contracts or plans to which the arranger is a party), are to be treated as *arranging* and therefore also as *home finance activities*.
- 1.2.13** **G** The effect of article 28A of the *Regulated Activities Order* would normally mean that arrangements made by a party to a *home finance transaction* would not fall within the *home finance activity* of *arranging*. So in a direct sale, a *home finance provider* would not be carrying on the *regulated activity* of *arranging* but, where the transaction proceeds to completion, would instead be involved in a *regulated activity* comprising *entering into a home finance transaction*. However, the provisions in *MCOB* on *arranging home finance transactions* are applied to pre-contractual arrangements by a *home finance provider*.

1.2.14

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MCD application

- (1) The provisions in the table in (2) apply only in relation to an *MCD regulated mortgage contract*.
- (2) This table belongs to (1).

Chapter	Provisions
MCOB 2A	Whole chapter
MCOB 3A	MCOB 3A.2.4R(2) and MCOB 3A.5
MCOB 3B	Whole chapter
MCOB 4	MCOB 4.4A.4R (1)(a) and (3), MCOB 4.4A.8R (1)(d) and MCOB 4.4A.8R (2)(e)
MCOB 4A	Whole chapter
MCOB 5A	Whole chapter
MCOB 6A	Whole chapter
MCOB 7A	Whole chapter
MCOB 7B	Whole chapter
MCOB 10A	Whole chapter
MCOB 11	MCOB 11.6.21A R and MCOB 11.6.21B G
MCOB 11A	Whole chapter

1.2.15

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- (1) In the table in (2), the provisions in column (1) apply in relation to an *MCD regulated mortgage contract* instead of the provisions in column (2).
- (2) This table belongs to (1).

(1) MCD requirement	(2) Non-MCD requirement
MCOB 5A	MCOB 5
MCOB 6A	MCOB 6
MCOB 7B	MCOB 7.6.7R to 7.6.17
MCOB 10A	MCOB 10

1.2.16

R

- (1) For any *regulated mortgage contract* which is not an *MCD regulated mortgage contract*, a *firm* may elect to comply with any part of MCOB as if the contract was an *MCD regulated mortgage contract*.
- (2) Where the contract in (1) is an *MCD exempt lifetime mortgage* that is not a *retirement interest-only mortgage*, the *firm* must continue to provide an *illustration* in accordance with the relevant requirements in MCOB, rather than an *ESIS*.

1.2.17 **G** The purpose of **■ MCOB 1.2.16 R** is to allow a *firm* to apply provisions of *MCOB* which implement the *MCD* for an *MCD regulated mortgage contract* to *regulated mortgage contracts* that are not *MCD regulated mortgage contracts*, save in respect of *MCD exempt lifetime mortgages* (other than *retirement interest-only mortgages*) where the *firm* must continue to provide an *illustration* in accordance with the relevant requirements in *MCOB*, rather than an *ESIS*.

1.2.18 **R** A *firm* that makes the election in **■ MCOB 1.2.16 R** to treat an *MCD exempt bridging loan* as if it were an *MCD regulated mortgage contract* must calculate the *APRC* for the *MCD exempt bridging loan* by applying the following additional assumptions:

- (1) the *total amount of credit* must be deemed to be drawn down in full and for the duration of the *MCD exempt bridging loan*; and
- (2) if the duration of the *MCD exempt bridging loan* is not known, the *APRC* must be calculated on the assumption that the duration of the *credit* is 12 months.

Identifying MCD credit agreements

1.2.19 **G**

- (1) To meet the definition of an *MCD credit agreement* (including a *foreign currency loan*), a contract must come within the definition at the time it is entered into.
- (2) The effect of (1) is that:
 - (a) a contract which, at the time it is entered into, comes within the definition of an *MCD regulated mortgage contract* (and a *foreign currency loan* where applicable) remains an *MCD regulated mortgage contract* (and a *foreign currency loan* where applicable) throughout its remaining term, even if there are subsequent periods of time when some or all of the conditions set out in the definition are not satisfied; and
 - (b) unless the contract is subsequently replaced with a new contract which meets the conditions in the definition, a contract which does not start out as an *MCD regulated mortgage contract* or a *foreign currency loan* cannot subsequently become one, even if the contract is subsequently amended so that it meets all the conditions set out in definition.

Applicability of MCOB to regulated mortgage contracts which had previously been regulated credit agreements

1.2.20 **G** [deleted]

1.2.21 **G**

- (1) By virtue of amendments to articles 60B, 60C and 61 of the *Regulated Activities Order* which came into force on 21 March 2016, certain *regulated credit agreements* became *regulated mortgage contracts* (but see the transitional provisions described in (3) below). The provisions of *MCOB* that apply to these *regulated mortgage contracts* include:
 - (a) **■ MCOB 7** (Disclosure at start of contract and after sale);

- (b) ■ **MCOB 12** (Charges); and
 - (c) ■ **MCOB 13** (Payment difficulties and repossessions: regulated mortgage contracts and home purchase plans).
- (2) Where a *regulated mortgage contract* is a *second charge regulated mortgage contract* which was entered into before 21 March 2016, **MCOB** applies to the contract from 21 March 2016.
- (3) Where a *regulated mortgage contract* is a *legacy CCA mortgage contract* secured by a *first charge legal mortgage*, **MCOB** applies to the contract from the earliest of:
- (a) the date on which the *lender* first acts in compliance or purported compliance with *rules* in the *FCA Handbook* which apply to *regulated mortgage contracts* in respect of the contract;
 - (b) the date from which the *lender* notifies the borrower in writing that it will act in compliance with such *rules* in respect of the contract; and
 - (c) 21 March 2017.

Application of MCOB where agreements are facilitated by a P2P platform

1.2.22

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- (1) A provision of **MCOB** that applies to a *mortgage lender*, a *home purchase plan provider*, a *home reversion provider* or a *SRB agreement provider* also applies to a *P2P platform operator* facilitating a *regulated mortgage contract*, *home purchase plan*, *home reversion plan* or *regulated sale and rent back agreement* where the lender, plan provider, reversion provider or agreement provider does not require permission to enter into the transaction. It applies subject to the provisions in ■ **MCOB 15**.
- (2) A provision of **MCOB** that applies to a *mortgage administrator* or a *home purchase administrator* also applies to a *P2P platform operator* administering a *regulated mortgage contract* or *home purchase plan* on behalf of a lender or plan provider who did not require permission to enter into the transaction. It applies subject to the provisions in ■ **MCOB 15**.
- (3) Subject to ■ **MCOB 1.2.22R(5)**, ■ **MCOB 1.2.22R(4)** applies where:
 - (a) a *P2P platform operator* facilitates an arrangement under which a number of *persons* provide home finance to a single *customer*, either individually under separate contracts, or jointly and severally under a single contract;
 - (b) by virtue of ■ **MCOB 1.2.22R(1)**, a provision of **MCOB** (as modified by ■ **MCOB 15**) applies to the *P2P platform operator*;
 - (c) the provision as modified requires the *P2P platform operator* to make a disclosure or notification in respect of the entirety of the arrangement; and
 - (d) the provision requires one or more of the *home finance providers* under the arrangement to make the same disclosure or notification in respect of their individual contract, or their share of the joint and several contract.

1.2.23

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- (4) The *home finance provider* is not required to comply with the provision referred to in ■ MCOB 1.2.22R(3)(d).
- (5) ■ MCOB 1.2.22R(4) does not apply where the provision in question is one which applied immediately before *IP completion day* and a failure to secure compliance with the provision would have been incompatible with *EU* law at that time.

- (1) The purpose of ■ MCOB 1.2.22R(3) to ■ 1.2.22R(5) is to avoid imposing overlapping requirements on the *P2P platform operator* facilitating a home financing arrangement and any *firms* who may participate in that arrangement as finance providers, to the extent that was compatible with *EU* law immediately before *IP completion day*, in particular the *MCD* and the *Distance Marketing Directive*. The table below provides non-exhaustive guidance on *MCOB* provisions with which a *firm* may need to comply, notwithstanding ■ MCOB 1.2.22R(3) and ■ MCOB 1.2.22R(4).

- (2) This table belongs to (1).

MCOB provisions	Description
MCOB 5A.4.1R	Provision of a European Standardised Information Sheet (ESIS): timing
MCOB 6.5.6R	Distance contracts with retail customers
MCOB 6.8.5R	Distance contracts with retail customers
MCOB 7.6.1R	Notification of payment changes and other material changes to terms and conditions
MCOB 7.6.7R	Further advances
MCOB 7.6.17R	
MCOB 7.6.18R	Rate switches
MCOB 7.6.22R	Addition or removal of a party to the contract
MCOB 7.6.28R	Changes to the amount of each payment due

1.2.24

R

In this section and in ■ MCOB 15:

- (1) a reference to a *P2P platform operator* facilitating a *regulated mortgage contract*, *home purchase plan*, *home reversion plan* or *regulated sale and rent back agreement* is a reference to the platform facilitating *persons* becoming the lender and borrower, *home purchase provider* and *home purchaser*, *reversion provider* and *reversion occupier*, or agreement provider and agreement seller under an agreement which comprises that transaction; and
- (2) a reference to a *regulated mortgage contract* that is facilitated by a *P2P platform operator* excludes a *CBTL credit agreement*.

1.2.25

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■ MCOB 15 contains *rules and guidance* that apply in relation to *regulated mortgage contracts* and other *home finance transactions* facilitated by *P2P platform operators*. It includes *rules* that disapply other parts of *MCOB* that would otherwise apply by virtue of ■ MCOB 1.2.22R(1) or ■ 1.2.22R(2), and *rules* that apply or modify the application of certain other *MCOB* provisions in such circumstances. ■ MCOB 15 also includes *guidance* that will be relevant to such a *P2P platform operator* whether or not a lender or provider falls within the definition of a *mortgage lender*, *home purchase provider*, *reversion provider* or *SRB agreement provider*.



1.3 General application: where?

Location of the customer

1.3.1 **R** Except as set out in this section, *MCOB* applies if the *customer* of a *firm* carrying on *home finance activities* is, at the time that the *home finance activity* is carried on, resident in:

- (1) the *United Kingdom*; or
- (2) an *EEA State*, where the activity is carried on:
 - (a) from an establishment maintained by the *firm* (or its *appointed representative*) in the *United Kingdom*; and
 - (b) in respect of a *regulated mortgage contract* entered into before *IP completion day*.

1.3.1A **R** [deleted]

1.3.1B **R** [deleted]

1.3.1C **G** [deleted]

Financial Promotion

1.3.2 **R** The territorial scope of **MCOB 3A** Financial promotions and communications with customers) is set out in MCOB 3A.1.13R to MCOB 3A.1.16R (Territorial scope and Exceptions to territorial scope), rather than in this section.

1.3.3 **R** [deleted]

1.3.4 **R** [deleted]

Distance contracts with retail customers

1.3.5 **G** Parts of *MCOB* relate to *distance contracts* (or *distance mortgage mediation contracts* and *distance home purchase mediation contracts*) with *consumers*. These expressions are derived from the *Distance Marketing Directive*, and the following paragraphs provide some *guidance* to *firms* on their meaning:

- (1) *consumer*

The *rules* which implemented the *Distance Marketing Directive* apply for *distance contracts* with 'any natural person who is acting for purposes which are outside his trade, business or profession', for which the term '*consumer*' has been adopted. Examples of individuals who would be regarded as *consumers* include:

- (a) personal representatives, including executors, unless they are acting in a professional capacity, for example a solicitor acting as executor; or
- (b) private individuals acting in personal or other family circumstances, for example, a trustee of a family trust.

(2) *Distance contract*

To be a *distance contract*, a contract must be concluded under an 'organised distance sales or service-provision scheme' run by the contractual provider of the service who, for the purpose of the contract, makes exclusive use (directly or through an intermediary) of one or more means of distance communication up to and including the time at which the contract is concluded. So:

- (a) the *firm* must have put in place facilities designed to enable a *customer* to deal with it exclusively at a distance, such as facilities for a *customer* to deal with it purely by post, telephone, fax or the Internet. If a *firm* normally operates face-to-face and has no facilities in place enabling a *customer* to deal with it customarily by distance means, the *rules* which implemented the *Distance Marketing Directive* will not apply. A one-off transaction effected exclusively by distance means to meet a particular contingency or emergency will not be a *distance contract*; and
- (b) there must have been no simultaneous physical presence of the *firm* and the other party to the contract throughout the offer, negotiation and conclusion of the contract. So, for example, contracts offered, negotiated and concluded over the Internet, through a telemarketing operation, or by post will normally be *distance contracts*.

Use of intermediaries

1.3.6



The mere fact that an intermediary (acting for the supplier or for the *consumer*) is involved, does not make the sale of a financial product or service a *distance contract*. There will not be a *distance contract* if there has been simultaneous physical presence of the intermediary and the *consumer* at some stage in the offer, negotiation and conclusion of the contract.

1.5 Application to appointed representatives

1.5.1

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- (1) Although *MCOB* does not apply directly to a *firm's appointed representatives*, a *firm* will always be responsible for the acts and omissions of its *appointed representatives* in carrying on business for which the *firm* has accepted responsibility (section 39(3) of the *Act*). In determining whether a *firm* has complied with any provision of *MCOB*, anything done or omitted by a *firm's appointed representative* (when acting as such) will be treated as having been done or omitted by the *firm* (section 39(4) of the *Act*).
- (2) *Firms* should refer to ■ SUP 12 (Appointed representatives), which sets out requirements which apply to *firms* using *appointed representatives*.

1.6 Distinguishing regulated mortgage contracts and regulated credit agreements

- 1.6.1** **G** *MCOB applies to regulated mortgage contracts. For certain categories of regulated mortgage contract, MCOB applies from the dates mentioned in ■ MCOB 1.2.21G. A credit agreement secured on land that is not a regulated mortgage contract, for example because the borrower is not an individual or a trustee, may be a regulated credit agreement to which the CCA and CONC apply (see ■ CONC 1.2.7G).*
- 1.6.2** **G** *Principle 2 requires a firm to conduct its business with due skill, care and diligence. The purpose of ■ MCOB 1.6.3 R is to reinforce this. The FCA would expect firms to take appropriate steps to determine whether any mortgage it proposes to enter into is subject to FCA regulation and, if so, whether it is a regulated mortgage contract or a regulated credit agreement.*
- 1.6.3** **R** *Before a firm enters into a mortgage, it must take all reasonable steps to establish whether that mortgage will be a regulated mortgage contract and therefore subject to MCOB.*
- 1.6.4** **R** *If, notwithstanding the steps taken by a firm to comply with ■ MCOB 1.6.3 R, it transpires that a mortgage which the firm has treated as unregulated or as a regulated credit agreement is in fact a regulated mortgage contract, the firm must as soon as practicable after the correct status of the mortgage has been established:*
- (1) *contact the customer and provide him with the following information in a durable medium:*
 - (a) *a statement that the mortgage contract is a regulated mortgage contract ; and*
 - (b) *(i) where the firm has treated the mortgage as unregulated, a statement that the mortgage contract is subject to FCA regulation, stating in particular the position with regard to redress and compensation; or*
 - (ii) where the firm has treated the mortgage as a regulated credit agreement, a statement that;*
 - (A) *(A) neither the CCA nor CONC will apply to the mortgage contract;*

1.6.5

G

- (B) (B) any rights or requirements arising under the CCA or CONC set out in previous communications will not apply; and
 - (C) (C) MCOB will apply to the mortgage contract.
- (2) apply to the *regulated mortgage contract* all relevant MCOB requirements, such as those on disclosure (in ■ MCOB 7) or on the treatment of *customers* who have or may have payment difficulties (in ■ MCOB 13).
- (1) ■ MCOB 1.6.4 R(2) means, for example, that if a *firm* discovered immediately after completion that a loan was a *regulated mortgage contract*, the *firm* would be required to comply with ■ MCOB 7.4 (Disclosure at the start of the contract).
- (2) Although ■ MCOB 1.6.4 R recognises that *firms* may become aware that a mortgage is a *regulated mortgage contract* at a late stage, the FCA expects this to be an extremely rare occurrence. It could arise, for example, if a *firm* has acted on the understanding, verified as far as was practicable, that in respect of a particular mortgage contract less than 40% of the land would be used in connection with a dwelling. If it was discovered later that more than 40% of the land was used in connection with the dwelling (and provided that all the other legal requirements were met) the mortgage will be a *regulated mortgage contract* to which MCOB applies.
- (3) ■ MCOB 1.6.3 R and ■ MCOB 1.6.4 R do not override the application of MCOB to any *regulated mortgage contract*. MCOB applies notwithstanding a *firm's* genuine belief that a mortgage is unregulated or is a *regulated credit agreement*. In deciding whether to take disciplinary action as a result of a breach of MCOB, the FCA will take into account whether the action by the *firm* was reckless or deliberate (see ■ DEPP 6.2.1G (1)(a)).

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Chapter 2

Conduct of business standards: general

2.1 Application

Who?

2.1.1 **R** This chapter applies to a *firm* in a category listed in column (1) of the table in **MCOB 2.1.2 R** in accordance with column (2) of that table.

2.1.2 **R** This table belongs to **MCOB 2.1.1 R**

(1) Category of firm	(2) Applicable section
<i>mortgage lender</i>	whole chapter except MCOB 2.6A.1 R to MCOB 2.6A.18 G and MCOB 2.8.6 G
<i>mortgage administrator</i> <i>mortgage adviser</i> <i>mortgage arranger</i>	As for a <i>mortgage lender</i> , except that MCOB 2.6A.-1 R does not apply.
<i>home purchase provider</i>	MCOB 2.1,, MCOB 2.5 to MCOB 2.6, MCOB 2.6A.1 R to MCOB 2.6A.4 G, MCOB 2.6A.7 G to MCOB 2.6A.10 G, MCOB 2.7.4 R to MCOB 2.7.6 R, MCOB 2.7A, MCOB 2.8.6 G and MCOB 2.9
<i>home purchase administrator</i>	As for a <i>home purchase provider</i> but MCOB 2.6A.1 R to MCOB 2.6A.4 G and MCOB 2.6A.7 G do not apply
<i>home purchase adviser</i> <i>home purchase arranger</i>	As for a <i>home purchase provider</i> but MCOB 2.6A does not apply
<i>reversion provider</i>	whole chapter except MCOB 2.6A.7 G, MCOB 2.7.4 R to MCOB 2.7.6 R and MCOB 2.8.6 G
<i>reversion administrator</i> <i>reversion arranger</i>	As for a <i>reversion provider</i> but the relevant provisions of MCOB 2.6A apply only when <i>arranging</i> for a <i>home reversion plan</i> to be entered into by a <i>reversion occupier</i> with, or <i>administering</i> a <i>home reversion plan</i> provided by, an <i>unauthorised reversion provider</i> .
<i>reversion adviser</i>	As for a <i>reversion provider</i> but MCOB 2.6A does not apply
<i>SRB administrator</i>	MCOB 2.1, MCOB 2.5 to

(1) Category of firm	(2) Applicable section
	MCOB 2.6, MCOB 2.6A.5BR (5), MCOB 2.6A.8 R to MCOB 2.6A.11 G, MCOB 2.6A.17A R, MCOB 2.6A.18 G, MCOB 2.7.1 G to MCOB 2.7.5 R, MCOB 2.7A, MCOB 2.8.1 G to MCOB 2.8.5 G and MCOB 2.9.
<i>SRB adviser</i>	Whole chapter except MCOB 2.6A.5 R, MCOB 2.6A.7 G, MCOB 2.6A.17 R and MCOB 2.8.6 G.
<i>SRB agreement provider</i>	Whole chapter except MCOB 2.6A.5 R, MCOB 2.6A.7 G, MCOB 2.6A.17 R, MCOB 2.6A.17A R, MCOB 2.6A.18 G and MCOB 2.8.6 G.
<i>SRB arranger</i>	Whole chapter except MCOB 2.6A.5 R, MCOB 2.6A.7 G, MCOB 2.6A.17 R and MCOB 2.8.6 G.
<i>a firm that communicates or approves a financial promotion of qualifying credit or of a home reversion plan</i>	MCOB 2.5, MCOB 2.6, MCOB 2.7 (except, when the <i>financial promotion</i> relates to a <i>home reversion plan</i> , MCOB 2.7.4 R to MCOB 2.7.6 R), MCOB 2.7A, MCOB 2.8 (except MCOB 2.8.6 G) and MCOB 2.9
<i>a firm that communicates or approves a financial promotion of a home purchase plan</i>	MCOB 2.5, MCOB 2.6, MCOB 2.7, MCOB 2.7A, MCOB 2.8.6 G and MCOB 2.9

What?

2.1.3

R

This chapter applies in relation to:

- (1) *home finance activities*;
- (1A) to the extent specified in ■ MCOB 2.1.2 R, *regulated sale and rent back activity*;
- (2) those activities in ■ MCOB 12 and ■ MCOB 13 that are carried on after a *regulated mortgage contract* or *home purchase plan* has come to an end following the sale of a *repossessed* property, and those activities in ■ MCOB 12 that are carried on after a *home reversion plan* has ended for any reason; and
- (3) the *communication* or *approval* of a *financial promotion* of *qualifying credit*, of a *home purchase plan*, of a *home reversion plan* or of a *regulated sale and rent back agreement*.



2.1A Regulated mortgage contracts:
guidance on the meaning of
“payment shortfall”

2.1.1A



A *payment shortfall* is defined in the *Handbook* as the total sum of periodic payments of capital or interest (or both) that have become due under the terms of a *regulated mortgage contract* but which, in breach of those terms, remains unpaid. For the purpose of that definition, capital includes any amounts rescheduled over the term of the loan. An amount that has been rescheduled for payment over the remaining term of the mortgage in accordance with the terms of the contract does not form part of a *payment shortfall*. If, following such rescheduling, the *customer* misses a recalculated periodic payment, the full amount of that missed payment becomes part of the *customer’s payment shortfall*. Such rescheduling may only be done in a way that is consistent with the *FCA’s rules*, including those in ■ MCOB 13.

2.3 Inducements: regulated mortgage contracts, home reversion plans and regulated sale and rent back agreements

Purpose

- 2.3.1** **G** The purpose of **■ MCOB 2.3** is to ensure, in accordance with *Principles 1, 6 and 8*, that a *firm* does not conduct business under arrangements that might give rise to a conflict with its duty to *customers* or to unfair treatment of them.

Prohibition of inducements

- 2.3.2** **R** A *firm* must take reasonable steps to ensure that it, and any *person* acting on its behalf, does not:

- (1) offer, give, solicit or accept an inducement; or
- (2) direct or refer any actual or potential business in relation to a *regulated mortgage contract, home reversion plan or regulated sale and rent back agreement* to another *person* on its own initiative or on the instructions of an *associate*;

if it is likely to conflict to a material extent with any duty that the *firm* owes to its *customers* in connection with such a *home finance transaction* or any duty which such a recipient *firm* owes to its *customers* in connection with such a *home finance transaction*.

- 2.3.3** **G** An inducement is a benefit offered with a view to bringing about a particular course of action.

- 2.3.4** **G** The purpose of **■ MCOB 2.3.2 R(2)** is to prevent the requirement in **■ MCOB 2.3.2 R(1)** being circumvented by an inducement being given or received by an unregulated *associate*. There may be circumstances, however, where a *firm* is able to demonstrate that it could not reasonably have knowledge of an *associate* giving or receiving an inducement. It should not, however, direct business to another *person* on the instruction of an *associate* if this is likely to conflict with the interests of its *customers*.

- 2.3.5** **G** **■ MCOB 2.3.2 R** does not prevent a *firm*:

- (1) assisting a *home finance intermediary* so that the quality of the *home finance intermediary's* service to *customers* is enhanced; or

- (2) giving or receiving indirect benefits (such as gifts, hospitality and promotional competition prizes);

providing in either case this is not likely to give rise to a conflict with the duties that the recipient owes to the *customer*. In particular, such benefits should not be of a kind or value that is likely to impair the ability of a *firm* to act in compliance with any *rule* in *MCOB*, for example the suitability requirements in ■ [MCOB 4.7](#) (Advised sales).

2.3.6

R

- (1) A *firm* must not operate a system of giving or offering inducements to a *mortgage intermediary*, *reversion intermediary*, *SRB intermediary* or any other third party whereby the value of the inducement increases if the intermediary or third party, such as a packager, exceeds a target set for the amount of business referred (for example, a volume override).
- (2) A *firm* must not solicit or accept an inducement whereby the value of the inducement increases if the *firm* exceeds a target set for the amount of business referred.

Quantification of inducements

2.3.7

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- (1) A *mortgage lender*, *reversion provider* or *SRB agreement provider* must quantify, in cash terms, any material inducement it offers to a *mortgage intermediary*, *reversion intermediary*, *SRB intermediary* or a third party.
- (2) In quantifying the value of the material inducement, the *firm* must include any subsequent payments (such as a trail fee) made where the *customer* continues with the same *home finance transaction*.

2.3.8

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- (1) Quantification of any material inducement offered by the *mortgage lender* or *reversion provider* supports the disclosure requirements elsewhere in *MCOB*. Further *guidance* on the disclosure of any inducement in cash terms is provided in ■ [MCOB 5.6.118 G](#) for *regulated mortgage contracts* other than *lifetime mortgages*, ■ [MCOB 9.4.124 G](#) for *lifetime mortgages* and ■ [MCOB 9.4.173 G](#) for *home reversion plans*.
- (1A) Quantification of any material inducement offered by a *SRB agreement provider* in connection with the conclusion of a *regulated sale and rent back agreement* must be included in the disclosures made to the potential *SRB agreement seller* under ■ [MCOB 5.9.1R \(1A\)\(c\)](#).
- (2) A payment made to a third party unconnected with the *home finance intermediary*, where that payment only reflects the cost of outsourcing work relating to the processing of mortgage applications, would not be considered an inducement for these purposes.



2.4 High pressure sales: regulated mortgage contracts, home reversion plans and regulated sale and rent back agreements

Purpose

2.4.1 G The purpose of this section is to remind *firms* of the relevance of the high level standards in *PRIN*, especially with regard to the use of sales methods that may lead a *customer* to feel pressurised to enter into, or vary, a *regulated mortgage contract*, *home reversion plan* or *regulated sale and rent back agreement*.

Fair treatment

- 2.4.2 G
- (1) *Principle 6* (Customers' interests) requires that a *firm* must pay due regard to the interests of its *customers* and treat them fairly. This means, for example, that a *firm* should avoid selling practices that commit *customers* (or lead *customers* to believe that they are committed) to any *regulated mortgage contract* or *home reversion plan* before they have been able to consider the *illustration* and *offer document*. One such practice might be to present a new *customer* with an *illustration*, *offer document* and mortgage deed at one time and to require the mortgage deed to be signed on the same occasion (when there is no urgent need to do so).
 - (2) For *regulated sale and rent back agreements*, the *firm* should avoid practices that commit *customers* (or lead *customers* to believe they are committed) to any such agreement before they have been able to consider the information that is required by ■ MCOB 5.9.1 R (Pre-sale disclosure) and before the expiry of the 14 day cooling-off period as required by ■ MCOB 6.9.4 R (Written pre-offer document: Stage One).

Information

2.4.3 G *Principle 7* (Communications with clients) requires that a *firm* must pay due regard to the information needs of its *clients*, and communicate information to them in a way which is clear, fair and not misleading. This means, for example, that a *firm* should avoid giving any *customer* a false impression about the availability of a *regulated mortgage contract*, *home reversion plan* or *regulated sale and rent back agreement*, such as describing it as a 'special offer' not available after a certain date unless this is really the case.

2.5 Reliance on others

Purpose

2.5.1

G

Principle 2 requires a *firm* to conduct its business with due skill, care and diligence. ■ MCOB 2.5 indicates the extent to which *firms* that carry on *home finance activities* and that *communicate* or *approve* a *financial promotion* can meet this requirement by relying on others.

When firms can rely on others

2.5.2

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A *firm* will be taken to be in compliance with any *rule* in *MCOB* that requires a *firm* to obtain information to the extent that the *firm* can show that it was reasonable for it to rely on information provided to it by another *person*.

2.5.3

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(1) In relying on ■ MCOB 2.5.2 R, a *firm* should take reasonable steps to establish that the other *person* providing the information is:

(a) not connected with the *firm*; and

(b) competent to provide the information.

(2) Compliance with (1) may be relied on as tending to establish compliance with ■ MCOB 2.5.2 R.

(3) Contravention of (1) may be relied on as tending to establish contravention of ■ MCOB 2.5.2 R.

2.5.4

R

(1) Any information which a *rule* in *MCOB* requires to be sent to a *customer* may be sent to another *person* on the instruction of the *customer*, so long as the recipient is not connected with the *firm*.

(2) There is no need for a *firm* to send information to a *customer* where it has taken reasonable steps to establish that this has been or will be supplied by another *person*.

2.5A The customer's best interests

2

- 2.5A.1** **R** A *firm* must act honestly, fairly and professionally in accordance with the best interests of its *customer*.
[Note: article 7(1) of the *MCD*]

2.6 Exclusion of liability

Purpose

2.6.1 **G** *Principle 6* (Customers' interests) requires a *firm* to pay due regard to the interests of its *customers* and treat them fairly. A *firm* may not exclude the duties it owes or the liabilities it has to a *customer* under the *regulatory system*. It may exclude other duties and liabilities only if it is reasonable for it to do so.

Limits on the exclusion of liability

2.6.2 **R** A *firm* must not, in any written or oral communication, seek to exclude or restrict, or to rely on any exclusion or restriction of, any duty or liability it may have to a *customer* under the *regulatory system*.

2.6.3 **R** A *firm* must not, in any written or oral communication to a *customer*, seek to exclude or restrict, or to rely on any exclusion or restriction of, any duty or liability not referred to in ■ MCOB 2.6.2 R unless it is reasonable for it to do so.

2.6A Protecting customer's interests: regulated mortgage contracts, home purchase plans, home reversion plans and regulated sale and rent back agreements

- 2.6A.-1** **R** **Protecting customer's interests: regulated mortgage contracts**
A *mortgage lender* may only include, or rely on, a term in a *regulated mortgage contract* which permits it to change the rate of interest from a fixed, discounted or other concessionary rate to the *firm's* standard variable rate in the event of a breach of contract if each of the following conditions is met:
- (1) the breach of contract is material;
 - (2) the breach of contract is unrelated to a *payment shortfall*; and
 - (3) that standard variable rate is not an interest rate created especially for *customers* who are (either at all, or in particular ways) in breach of contract.
- 2.6A.1** **R** **Protecting customer's interests: home purchase plans, home reversion plans and regulated sale and rent back agreements**
A *firm* must ensure that the interests of its *customer* under a *home purchase plan*, *home reversion plan* or *regulated sale and rent back agreement* are protected to a reasonable standard.
- 2.6A.2** **G** Circumstances that a *firm* should consider include how the *customer* will be protected in the event of:
- (1) the *failure* of a *reversion provider*, *home purchase provider* or *SRB agreement provider*;
 - (2) the transfer of a *reversion provider's*, *home purchase provider's* or *SRB agreement provider's* interest (or the interest the provider would have had, had it not nominated a third party to hold it) in the property to a third party;
 - (3) other dealings by a *reversion provider*, *home purchase provider* or *SRB agreement provider* (or its nominee) with a third party; and

2.6A.3

G

(4) a reversion provider's, home purchase provider's or SRB agreement provider's (or its nominee's) failure to perform obligations owed to third parties, or imposed by statute.

The steps that a *firm* might take in order to protect its *customer's* interests will depend on a number of factors, including the nature and structure of the *home purchase plan*, *home reversion plan* or *regulated sale and rent back agreement* and the jurisdiction in which the property is situated. If it is not possible to achieve reasonable protection (for example, due to impediments under a particular legal system) then a *firm* should not enter into, arrange or administer the plan.

2.6A.4

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- (1) In the *FCA's* view, a *customer's* interests will include:
- (a) protection of the *customer's* rights under the plan, in particular the right to occupy the property throughout its term;
 - (b) protection of any interest (legal or beneficial) that the *customer* retains, acquires or is intended to acquire in the property, including the expectation that such interests will be unencumbered by third party interests;
 - (c) that, where a *customer* pays sums under a *home purchase plan* towards the purchase price of the property, those sums will be applied towards the purchase price. Or, in circumstances where that is not practicable (for example, on *repossession*), that an appropriate amount will be returned to the *customer*; and
 - (d) a *customer's* contractual entitlement to receive certain sums back after a qualifying period, such as where it has been agreed that a certain percentage of discount will be refunded to the *customer* after a set period of tenancy.
- (2) The protections that a *firm* should consider include:
- (a) the extent to which different forms of tenure protect the tenant's right to occupy the property and afford protection against removal. In particular, granting the *customer* a licence to occupy the property is unlikely to provide an adequate level of security;
 - (b) (except in Scotland) the need for any agreement under which a *customer* has a right to acquire an interest in the property to be specifically enforceable;
 - (c) the extent to which appropriate registrations, restrictions, notices or other entries should be made in the relevant land register;
 - (d) the timing of entries in the relevant land register and who should be responsible for making them; and
 - (e) the *customer's* need for a full and clear understanding of all the steps that the *firm* expects him or his advisers to take to protect his interests both at the time the plan is entered into, and throughout its duration.

Protecting customers' interests: additional material for home reversion plans

2.6A.5

R

Unless it is satisfied on reasonable grounds based on the *customer's* knowledge, expertise and experience that it is unnecessary, a *firm* must

obtain from its *customer's* legal adviser, before its *customer* enters into a *home reversion plan*, confirmation that:

- (1) he has been instructed to ensure that the *customer's* legal rights under the plan are protected to a reasonable standard; and
- (2) he has explained to the *customer* those aspects of the *customer's* legal rights and obligations under the *home reversion plan* that he needs to understand.

Protecting customer's interests: regulated sale and rent back agreements

2.6A.5A

R

A *firm* must ensure that before a *SRB agreement seller* enters into a *regulated sale and rent back agreement*, the *SRB agreement seller* is made aware of the availability and importance of independent legal or professional advice.

Protecting customers' interests under regulated sale and rent back agreements: security of tenure

2.6A.5B

R

- (1) When *entering into a regulated sale and rent back agreement*, a *firm* must ensure that, under the terms of the *regulated sale and rent back agreement*:
 - (a) the entitlement of the *SRB agreement seller* (or trust beneficiary or related person) to occupy the property is governed by a tenancy, which is structured:
 - (i) if the property is in England and Wales, as an assured tenancy (including an assured shorthold tenancy) under the Housing Act 1988 (as amended);
 - (ii) if the property is in Scotland, as an assured tenancy (including a short assured tenancy) under the Housing (Scotland) Act 1988, (as amended); and
 - (iii) if the property is in Northern Ireland, as a private tenancy under the Private Tenancies (Northern Ireland) Order 2006;
 - (b) the tenancy is for a fixed term of no less than five years;
 - (c) the terms of the tenancy provide for the tenant to terminate the tenancy during the fixed term on no more than three months' notice (and with no other conditions attached); and
 - (d) each of the terms of the tenancy is fair.
- (2) When *entering into a regulated sale and rent back agreement*, a *firm* must ensure that, under the terms of the *regulated sale and rent back agreement*, if the property is in England and Wales, the terms of the tenancy do not:
 - (a) give the landlord power to determine the tenancy in certain circumstances as referred to in section 5(1) of the Housing Act 1988, as amended; or
 - (b) otherwise make provision for the tenancy to be brought to an end by the landlord save on a ground or grounds for possession applicable for an assured tenancy under the Housing Act 1988, as amended; or

- (c) make provision for the tenancy to be brought to an end on any of Grounds 2, 6, 8 or 9 under the Housing Act 1988, as amended.

A *firm* may not rely during the fixed term of the tenancy on any ground for possession of the property other than a ground for possession on which the terms of the tenancy may under this paragraph (2) make provision for the tenancy to be brought to an end by the landlord, and a *firm* may only rely on any ground for possession if it is fair for the *firm* to do so.

- (3) When *entering into a regulated sale and rent back agreement*, a *firm* must ensure that, under the terms of the *regulated sale and rent back agreement*, if the property is in Scotland, the terms of the tenancy do not include:

- (a) any provision for it to be brought to an end by the landlord during the fixed term other than a ground for possession applicable for an assured tenancy under the Housing (Scotland) Act 1988, as amended; or
- (b) Grounds 2, 6, 8 or 9 under the Housing (Scotland) Act 1988, (as amended).

A *firm* may not rely during the fixed term of the tenancy on any ground for possession of the property other than the grounds permitted under this paragraph (3) to be included in the terms of the tenancy, and a *firm* may only rely on any ground for possession if it is fair for the *firm* to do so.

- (4) When *entering into a regulated sale and rent back agreement*, a *firm* must ensure that, under the terms of the *regulated sale and rent back agreement*, if the property is in Northern Ireland, the terms of the tenancy do not include:

- (a) any provision which would permit the landlord to forfeit the lease and obtain possession of the property during the fixed term unless the provision is equivalent to a ground for possession applicable for an assured tenancy under Schedule 2 to the Housing Act 1988, as amended, in England; or
- (b) any provision which would permit the landlord to forfeit the lease and obtain possession of the property on the basis that:
 - (i) a mortgagee (or chargee) under a mortgage (or charge) entered into by the landlord requires vacant possession for the purposes of exercising a power of sale of the property; or
 - (ii) the landlord intends to demolish or reconstruct, or carry out substantial works on, the property or any part of the property; or
 - (iii) there are arrears of rent, unless the conditions applicable to either Ground 9 or Ground 10 under the Housing Act 1988, as amended, in England, are satisfied; or
 - (iv) alternative accommodation is available for the tenant.

A *firm* may not rely during the fixed term of the tenancy on any circumstance to forfeit the lease and obtain possession of the property other than the circumstances permitted under this paragraph (4) to be included in the tenancy agreement, and a *firm* may only rely on any circumstance if it is fair for the *firm* to do so.

(5) A *firm* must not take, or propose or threaten to take, any steps to evict the *SRB agreement seller* (or trust beneficiary or related person) other than by applying to the court for a possession order based on the grounds or circumstances, reliance on which is not prohibited by this *rule*, and enforcing that order in a lawful manner.

(6) Where a *SRB agreement provider* enters into or proposes to enter into (whether before or after the commencement of the tenancy) a mortgage (or charge or standard security) over the interest it obtains under a *regulated sale and rent back agreement*, the *firm* must ensure that the mortgagee (or chargee or security holder) has agreed in writing to the proposed letting under the agreement, and to the terms of the agreement. The *firm* must provide to the *SRB agreement seller* a copy of the agreement in writing of the mortgagee (or chargee or security holder).

[**Note:** In England, Wales and Scotland a landlord, such as a *SRB agreement provider*, can only seek possession of a property during the fixed term of an assured tenancy if one or more of a limited number of grounds for possession set out in (in England and Wales) the Housing Act 1988, as amended, or (in Scotland) the Housing (Scotland) Act 1988, as amended, applies and the terms of the tenancy make provision for it to be ended on any of these grounds. Once the fixed term of the assured tenancy has ended, the landlord has the right to seek possession on broader grounds. Where the tenancy is (in England) an assured shorthold tenancy or (in Scotland) a short assured tenancy, the landlord has an additional right to seek possession from the end of the fixed term.

In Northern Ireland, the position is governed by the Private Tenancies (Northern Ireland) Order 2006 and the parties are free to agree the terms of a tenancy including its duration and the grounds on which the landlord may seek possession, including during any fixed term.

In any event it is for the court to decide whether one or more of the grounds for possession actually applies in the particular circumstances of any case.

In Northern Ireland, a tenant must give at least four weeks' notice to quit. Northern Ireland law implies a fixed term of six months in a private tenancy unless the parties agree an alternative fixed term, so a notice to quit expiring before the first six months of the tenancy may not be effective.]

2.6A.5C G In the light of ■ **MCOB 2.6A.5BR (1)(c)**, and in accordance with *Principle 6*, a *firm* should not seek to prevent a tenant in Northern Ireland from ending the tenancy on less than the agreed notice period (not exceeding three months in accordance with ■ **MCOB 2.6A.5BR (1)(c)**), where the notice is given in the first six months of the tenancy.

2.6A.6 G *Firms* remain responsible for ensuring that their *customers'* interests are protected to a reasonable standard.

Protecting customers' interests: additional material for home purchase plans

- 2.6A.7** **G** A *home purchase provider* should consider obtaining confirmation from the *customer's* legal adviser that he has carried out, or will carry out, the steps that the *firm* expects the *customer* or his legal advisers to take to protect his interests at the time the plan is taken out.

Treating customers fairly: home purchase plans, home reversion plans and regulated sale and rent back agreements

- 2.6A.8** **R** A *firm* must pay due regard to the interests of its *customer* and treat him fairly when drafting, amending the terms of, or imposing obligations or exercising rights or discretions under, a *home purchase plan*, *home reversion plan* or *regulated sale and rent back agreement*.

- 2.6A.9** **G** A *firm* is unlikely, for example, to be treating its *customer* fairly in relation to termination of a *home purchase plan*, *home reversion plan* or *regulated sale and rent back agreement* if:

- (1) the grounds on which it may terminate all or part of a plan or agreement are unduly wide, or on which a *customer* may terminate are unduly narrow; or
- (2) the *customer* is not given appropriate notice of termination.

- 2.6A.10** **G** A *firm* is also unlikely to be treating its *customer* fairly if, upon termination of an agreement under a *home purchase plan*, *home reversion plan* or *regulated sale and rent back agreement*, the *customer* does not receive (net of any reasonable sums payable by the *customer*):

- (1) in the case of a *home reversion plan* or *regulated sale and rent back agreement* where the *customer* retains a beneficial interest in the property, the value of that beneficial interest; or
- (2) in the case of a *home purchase plan*, the value of purchase payments made.

[**Note:** The terms of a *home purchase plan*, *home reversion plan* or *regulated sale and rent back agreement* should take into account relevant legal obligations such as those under the *Unfair Terms Regulations* (for contracts entered into before 1 October 2015), the *CRA* and, where applicable, the *Housing Act 1988* (or, in Scotland, the *Housing (Scotland) Act 1988*). A *firm* may find material on the *FCA* website concerning the *FCA's* consumer protection powers useful.]

Treating customers fairly: home reversion plans and regulated sale and rent back agreements

- 2.6A.11** **G** A *firm* is unlikely, for example, to be treating a *reversion occupier* or *SRB agreement seller* fairly if:

- (1) the *reversion occupier* or *SRB agreement seller* is obliged to maintain the property to a standard which exceeds the standard that the

property is in when the *home reversion plan* or *regulated sale and rent back agreement* commences;

- (2) the *reversion occupier* or *SRB agreement seller* is not entitled to, or is not given, reasonable notice of an inspection, or the inspection is conducted in a way that is biased against him;
- (3) unreasonable restrictions are imposed on who may occupy the property, taking into account the potential needs of the *reversion occupier* or *SRB agreement seller* throughout the duration of the *home reversion plan* or *regulated sale and rent back agreement*;
- (4) unreasonable restrictions are imposed on the uses to which the property may be put;
- (5) the *reversion occupier* or *SRB agreement seller* is unreasonably treated as having abandoned the property. For example, it is likely to be unreasonable to treat a property as abandoned based only on a period of non-occupation;
- (5A) the rent payable under a *regulated sale and rent back agreement* is increased by an unreasonable amount or any charges payable under a *regulated sale and rent back agreement* are unreasonably imposed after the agreement is concluded; and
- (6) where the *reversion occupier* has a reasonable expectation that the *home reversion plan* can be transferred to another property, agreement to such a transfer is, or can be, refused unreasonably.

Independent valuation: home reversion plans and regulated sale and rent back agreements

2.6A.12 R A *firm* must ensure that any valuation is carried out by a competent valuer who is independent of the *reversion provider* or *SRB agreement provider*.

2.6A.12A R A *firm* must ensure that any valuation for the purposes of a *regulated sale and rent back agreement* is carried out by a valuer who owes a duty of care to the *customer* in valuing the property.

2.6A.13 E

- (1) A valuer may be considered competent if he is a suitably qualified member of a professional body.
- (2) A valuer may be considered independent if:
 - (a) the *customer* can choose the valuer subject to the *firm* objecting on reasonable grounds and to the valuer being competent;
 - (b) he owes a duty of care to the *customer* in valuing the property; and
 - (c) the *customer* has an appropriate remedy against him under a complaints procedure which allows the complaint to be referred to an independent person whose decision is binding on the valuer.

- (3) Compliance with (1) and (2) (except, in the case of a *regulated sale and rent back agreement*, (2)(b)) may be relied on as tending to establish compliance with ■ MCOB 2.6A.12 R.
- (4) [deleted]
- (5) For a *regulated sale and rent back agreement*, contravention of (1) or (2) (except (2)(b)) may be relied on as tending to show contravention of ■ MCOB 2.6A.12 R.
- 2.6A.13A** G A *firm* may wish to use the form of joint instruction letter set out in ■ MCOB 2 Annex 1G with a view to establishing that a valuer owes a duty of care to the *customer* (see ■ MCOB 2.6A.12A R). That form incorporates the definition of "market value" required by ■ MCOB 6.9.2R (1)(b).
- 2.6A.14** G Members of the Royal Institution of Chartered Surveyors, for example, are required to operate a complaints procedure that allows the complaint to be referred to an independent person whose decision binds the valuer and which, in the *FCA's* view, provides a *customer* with an appropriate remedy.
- Obtaining best price: partial home reversion plans or regulated sale and rent back agreements**
- 2.6A.15** R A *firm* must take reasonable steps to ensure that, when a *home reversion plan* or *regulated sale and rent back agreement* ends and the *customer* retains a beneficial interest in the property:
- (1) the property is sold within a reasonable period of time; and
- (2) the best price that might reasonably be obtained is paid.
- 2.6A.16** G It is recognised that a balance has to be struck between the need to sell the property as soon as possible, and other factors, such as market conditions, which may prompt the delay of the sale. Legitimate reasons for deferring action might include the expiry of a period when a grant is repayable on re-sale, or the discovery of a title defect that needs to be remedied if the optimal selling price is to be achieved.
- Arranging or administering for unauthorised providers: home reversion plans**
- 2.6A.17** R For the purpose of this section (except this *rule*), a *reversion arranger* or *reversion administrator's customer*:
- (1) includes a *reversion occupier* or potential *reversion occupier* who enters, or proposes to enter, into a *home reversion plan* with an *unauthorised reversion provider* who is the *firm's customer*; and
- (2) excludes an *unauthorised reversion provider*.

**Arranging or administering for unauthorised providers:
regulated sale and rent back agreements**

2.6A.17A **R** For the purpose of this section (except this *rule*), a *SRB arranger's* or *SRB administrator's* customer:

- (1) includes a *SRB agreement seller* or potential *SRB agreement seller* who enters, or proposes to enter, into a *regulated sale and rent back agreement* with an *unauthorised SRB agreement provider* who is the *firm's customer*; and
- (2) excludes an *unauthorised SRB agreement provider*.

**Arranging or administering for unauthorised providers: home
reversion plans and regulated sale and rent back agreements**

2.6A.18 **G** A *person* may enter into a *home reversion plan* or *regulated sale and rent back agreement* as provider or agreement provider without being regulated by the *FCA* (or an *exempt person*) if the *person* does not do so by way of business (see *PERG* 14.5). If a *firm* arranges or makes arrangements for such a *person* to enter into a *home reversion plan* or *regulated sale and rent back agreement* as provider or agreement provider, the *firm* will be responsible for ensuring that the *reversion occupier's* or *SRB agreement seller's* interests are protected to a reasonable standard, even if the *reversion arranger* or *SRB arranger* is not acting for the *reversion occupier* or *SRB agreement seller*. A *reversion administrator* or *SRB administrator* is under the same obligation in relation to a *reversion occupier* or *SRB agreement seller* under a *home reversion plan* or *regulated sale and rent back agreement* which it administers on behalf of an *unauthorised reversion provider* or *unauthorised SRB agreement provider*.

2.7 Application to electronic media and distance communications

- 2.7.1** G ■ **GEN 2.2.14 R** (References to writing) has the effect that electronic media may be used to make communications that are required by the *Handbook* to be 'in writing' unless a contrary intention appears. In *MCOB*, the use of an electronic medium is restricted in certain circumstances to a *durable medium* as required by the *Distance Marketing Directive*.

Additional guidance in respect of electronic communication with or for customers

- 2.7.2** G For any electronic communication with a *customer* in relation to a *home finance transaction* a *firm* should:
- (1) have in place appropriate arrangements, including contingency plans, to ensure the secure transmission and receipt of the communication; it should also be able to verify the authenticity and integrity of the communication together with the date and time sent and received; the arrangements should be proportionate and take into account the different levels of risk in a *firm's* business;
 - (2) be able to demonstrate that the *customer* wishes to communicate using this medium; and
 - (3) if entering into an agreement, make it clear to the *customer* that a contractual relationship is created that has legal consequences.

- 2.7.3** G A *firm* should note that ■ **GEN 2.2.14 R** (References to writing) does not affect any other legal requirement that may apply in relation to the form or manner of *executing a document* or agreement.

General provisions related to distance contracts

- 2.7.4** R During the course of a *distance contract* with a *consumer*, the making or performance of which constitutes or is part of a *regulated mortgage contract*, *home purchase plan* or *regulated sale and rent back agreement*:
- (1) the *firm* must, at the *consumer's* request, provide a paper copy of the contractual terms and conditions of the *regulated mortgage contract*, *home purchase plan*, *regulated sale and rent back agreement* or services being provided by the *firm*; and
 - (2) the *firm* must comply with the *customer's* request to change the means of distance communication used, unless this is incompatible

with the *regulated mortgage contract, home purchase plan, regulated sale and rent back agreement* or service being provided by the *firm*.

2.7.5

R

A *firm* must ensure that information provided to a *consumer* before the conclusion of a *distance contract* about his contractual obligations under that contract conform with the contractual obligations that would be imposed on him under the law applying if the contract were concluded.

Unsolicited services

2.7.6

R

(1) A *firm* must not:

- (a) supply a service to a *consumer* without a prior request on his part, when this activity includes a request for immediate or deferred payment; or
- (b) enforce any obligations against a *consumer* in the event of unsolicited supplies of services, the absence of a reply not constituting consent.

(2) Paragraph (1) applies in relation to *mortgage mediation activities, entering into a regulated mortgage contract, home purchase mediation activities* or *entering into a home purchase plan* under an organised distance sales or service-provision scheme run by the *firm* or by an intermediary, who, for the purpose of that supply, makes exclusive use of one or more means of distance communication up to and including the time at which the services are supplied.

2.7A E-Commerce

Application

- 2.7A.1** **R** This section applies to a *firm* carrying on an *electronic commerce activity* from an *establishment* in the *United Kingdom*, with or for a person in the *United Kingdom*, in relation to a *home finance transaction*.

Information about the firm and its products or services

- 2.7A.2** **R** A *firm* must make at least the following information easily, directly and permanently accessible to the recipients of the *information society services* it provides:
- (1) its name;
 - (2) the geographic address at which it is established;
 - (3) the details of the *firm*, including its e-mail address, which allow it to be contacted rapidly and communicated with in a direct and effective manner;
 - (4) an appropriate statutory status disclosure statement (■ GEN 4 Annex 1 R), together with a statement which explains that it is on the *Financial Services Register* and includes its Firm Reference Number;
 - (5) if it is a *professional firm*:
 - (a) the name of the professional body (including any *designated professional body*) or similar institution with which it is registered;
 - (b) the professional title;
 - (c) a reference to the applicable professional rules and the means to access them; and
 - (6) where the *firm* undertakes an activity that is subject to VAT, its VAT number.

[Note: article 5(1) of the *E-Commerce Directive*]

2.7A.3 **R** If a *firm* refers to price, it must do so clearly and unambiguously, indicating whether the price is inclusive of tax and delivery costs.

[Note: article 5(2) of the *E-Commerce Directive*]

2.7A.4 **R** A *firm* must ensure that commercial communications which are part of, or constitute, an *information society service*, comply with the following conditions:

- (1) the commercial communication must be clearly identifiable as such;
- (2) the *person* on whose behalf the commercial communication is made must be clearly identifiable;
- (3) promotional offers must be clearly identifiable as such, and the conditions that must be met to qualify for them must be easily accessible and presented clearly and unambiguously; and
- (4) promotional competitions or games must be clearly identifiable as such, and the conditions for participation must be easily accessible and presented clearly and unambiguously.

[Note: article 6 of the *E-Commerce Directive*]

2.7A.5 **R** An unsolicited commercial communication sent by e-mail by a *firm* must be identifiable clearly and unambiguously as an unsolicited commercial communication as soon as it is received by the recipient.

[Note: article 7(1) of the *E-Commerce Directive*]

Requirements relating to the placing and receipt of orders

2.7A.6 **R** A *firm* must (except when otherwise agreed by parties who are not *consumers*):

- (1) give an *ECA recipient* at least the following information, clearly, comprehensibly and unambiguously, and before the order is placed by the recipient of the service:
 - (a) the different technical steps to follow to conclude the contract;
 - (b) whether or not the concluded contract will be filed by the *firm* and whether it will be accessible;
 - (c) the technical means for identifying and correcting input errors before the placing of the order; and
 - (d) the languages offered for the conclusion of the contract;
- (2) indicate any relevant codes of conduct to which it subscribes and information on how those codes can be consulted electronically;
- (3) (when an *ECA recipient* places an order through technological means), acknowledge the receipt of the recipient's order without undue delay and by electronic means (an order and an acknowledgement of receipt are deemed to be received when the parties to whom they are addressed are able to access them); and

(4) make available to an *ECA recipient*, appropriate, effective and accessible technical means allowing the recipient to identify and correct input errors before the placing of an order.

[Note: article 10(1) and (2) and 11(1) and (2) of the *E-Commerce Directive*]

2.7A.7

R

Contractual terms and conditions provided by a *firm* to an *ECA recipient* must be made available in a way that allows the recipient to store and reproduce them.

[Note: article 10(3) of the *E-Commerce Directive*]

Exception: contract concluded by e-mail

2.7A.8

R

The requirements relating to the placing and receipt of orders do not apply to contracts concluded exclusively by exchange of e-mail or by equivalent individual communications.

[Note: article 10(4) and 11(3) of the *E-Commerce Directive*]

2.8 Record keeping

2

Purpose

- 2.8.1 **G** ■ MCOB 2.8 provides details of the standard expected of *firms* where there is an obligation in *MCOB* requiring *firms* to maintain adequate records to evidence compliance. An overall view of the record keeping requirements in *MCOB* is in ■ MCOB Sch 1.

Accessibility of records

- 2.8.2 **R** The records required in *MCOB* must be readily accessible for inspection by the *FCA*.
- 2.8.3 **G** A record would be 'readily accessible' if it were available for inspection within two *business days* of the request being received.
- 2.8.4 **G**
- (1) A *firm* may arrange for records to be kept in such form as it chooses, provided the record is readily accessible for inspection by the *FCA*.
 - (2) Where a *firm* chooses to maintain records in electronic form, it should take reasonable steps to ensure that:
 - (a) the electronic record accurately reflects the original information; and
 - (b) the electronic record has not been subject to unauthorised or accidental alteration.

- 2.8.5 **G** Except for ■ MCOB 11.6.21A R, each *rule* in *MCOB* that requires a record also sets out a period that the record must be kept for. While not a requirement of *MCOB*, *firms* may choose to keep records for longer periods, for example, where there is the possibility of *customer* complaint or legal action against the *firm*.

Home purchase plans

- 2.8.6 **G** This sourcebook does not specify detailed record keeping requirements for a *firm* that carries on a *home purchase activity* or that *communicates* or *approves* a *financial promotion* of a *home purchase plan* (but note the high-level record-keeping provisions in the Senior Management Arrangements, Systems and Controls sourcebook).

2.9 Restriction on marketing or providing an optional product for which a fee is payable

2.9.1

R

- (1) A *firm* must not enter into an agreement with a *customer* under which a charge is, or may become, payable for an optional additional product unless the *customer* has actively elected to obtain that specific product.
- (2) A *firm* must not impose a charge on a *customer* for an optional additional product under an agreement entered into on or after 1 April 2016 unless the *customer* actively elected to obtain that specific product before becoming bound to pay the charge.
- (3) A *firm* must not invite or induce a *customer* to obtain an optional additional product for which a charge will be, or may become, payable if the *firm* knows or has reasonable cause to suspect that:
 - (a) a contravention of (1) or (2) will take place with respect to the product; or
 - (b) the *person* supplying the optional additional product will act in a way that would contravene (1) or (2) if that *person* were a *firm*.
- (4) An omission by a *customer* is not to be regarded as an active election for the purposes of this *rule*.
- (5) It is immaterial for the purposes of (3) whether or not the *firm* would or might be a party to the agreement for the optional additional product.
- (6) A charge includes a financial consideration of any kind whether payable to the *firm* or to any other person.
- (7) An optional additional product is a good, service or right of any description (whether or not financial in nature) that a *customer* may obtain (or not, as the case may be) at his or her election in connection with or alongside entering into a *home finance transaction*.
- (8)
 - (a) Where a *customer* is required to obtain a specific additional product in order to enter into the *home finance transaction*, the product is not an optional additional product.
 - (b) Where a *customer* is required to obtain a particular category of additional product (for example, a particular type of insurance) in order to enter into the *home finance transaction*, and the

customer is given a choice as to the seller or supplier from whom to obtain the product or which specific product to obtain, the product is an optional additional product.

- (9) It is immaterial for the purposes of (7) and (8) whether the optional additional product is obtained from the *firm* or from another *person*.
- (10) (a) If, under the terms and conditions of an optional additional product, there is to be an automatic renewal of the agreement on substantially the same terms, it suffices for the purposes of (1) to (3) if the *customer* actively elected before entering into the initial agreement or a preceding renewal to obtain the product.
- (b) An automatic renewal of the agreement is not to be regarded as being on substantially the same terms if, following the renewal, a charge will or may become payable for the optional additional product for the first time (in which case, (1) to (3) apply at the time of the renewal).
- (c) Except as set out in (b), changes in the level of charges for an optional additional product are to be disregarded in determining whether an automatic renewal of an agreement is on substantially the same terms.
- (11) A *customer* may make an active election for the purposes of this *rule* through an intermediary in the sales process or through a *person* acting on behalf of the *firm*.

2.9.2 G An example of an omission by a *customer* which is not to be regarded as an active election is the failure by the *customer* to change a default option such as a pre-ticked box on a website.

2.9.3 G *Firms* are reminded that a similar prohibition on opt-out selling of add-on products is imposed by The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 in relation to optional additional agreements where the main sale is not a financial service or product.

2.9.4 G *Firms* are reminded of the guidance on appointed representatives set out in ■ MCOB 1.5G.

Form of joint instruction letter

This Annex belongs to ■ **MCOB 2.6A.13A G.** MCOB 2 Annex 1G - Form of joint instruction letter.

Chapter 2A

Mortgage Credit Directive



2A.1 Remuneration: MCD regulated mortgage contracts

- 2A.1.1** **R** (1) An *MCD mortgage lender* must not remunerate its *members of staff* or *MCD mortgage credit intermediaries* in a way that impedes the *MCD mortgage lender* from complying with the *rules*.
- (2) An *MCD mortgage credit intermediary* must not remunerate its *members of staff* or *appointed representatives* in a way that impedes the *MCD mortgage credit intermediary* from complying with the *rules*.
- [Note: article 7(2) of the *MCD*]
- 2A.1.2** **R** When establishing and applying *remuneration* policies for *members of staff* who are responsible for the assessment of affordability for *consumers*, an *MCD mortgage lender* must comply with the following principles:
- (1) be consistent with, and promote, sound and effective risk management;
 - (2) not encourage risk-taking that exceeds the level of tolerated risk of the *MCD mortgage lender*;
 - (3) be in line with the business strategy, objectives, values and long-term interests of the *MCD mortgage lender*; and
 - (4) incorporate measures to avoid conflicts of interest, in particular by providing that *remuneration* is not contingent on the number or proportion of applications accepted.
- [Note: article 7(3) of the *MCD*]
- 2A.1.3** **R** An *MCD mortgage lender* must comply with **■ MCOB 2A.1.2 R** in a way and to the extent that is appropriate to its size, internal organisation and the nature, scope and complexity of its activities:
- [Note: article 7(3) of the *MCD*]
- 2A.1.4** **R** An *MCD mortgage adviser*, or any other *firm* that is an *MCD mortgage lender* or an *MCD mortgage arranger* that provides advisory services within the meaning of article 4(21) of the *MCD*, must ensure that the *remuneration* structure of the *members of staff* involved does not:

- (1) prejudice the ability of the *members of staff* or the *firm* to act in the *consumer's* best interest; and
- (2) be contingent on sales targets.

[Note: article 7(4) of the *MCD*]

2A.1.5

G

The *remuneration* policies of *MCD mortgage lenders* and *MCD mortgage credit intermediaries*, including those that take account of sales volumes, should not be designed in a way that would incentivise their *members of staff* to conclude a given number or type of *MCD regulated mortgage contracts*.

2A

2A.2 Tying practices

- 2A.2.1** **R** Except in the circumstances specified in **■ MCOB 2A.2.2 G**, **■ MCOB 2A.2.3 R** and **■ MCOB 2A.2.4 R**, neither an *MCD mortgage lender* nor an *MCD mortgage credit intermediary* may engage in any *tying practice*.
[Note: article 12(1) of the *MCD*]
- 2A.2.2** **G** A *firm* will not be engaging in a *tying practice* where the financial service or product offered together with the *MCD credit agreement* cannot be offered separately as it is a fully integrated part of the *credit*, for example, a secured overdraft.
- 2A.2.3** **R** An *MCD mortgage lender* may request the *consumer*, family member or close relation of the *consumer* to:
- (1) open or maintain a payment or a savings account, where the only purpose of the account is to accumulate capital to repay the *credit*, to service the *credit*, to pool resources to obtain the *credit*, or to provide additional security for the *MCD mortgage lender* in the event of default;
 - (2) purchase or keep an investment product or a private pension product, where such product primarily offers the investor an income in retirement and also serves to provide additional security for the *MCD mortgage lender* in the event of default or to accumulate capital to repay the *credit*, to service the *credit* or to pool resources to obtain the *credit*; or
 - (3) conclude a separate *MCD regulated mortgage contract* in conjunction with a *shared equity credit agreement* to obtain the *credit*.
- [Note: article 12(2) of the *MCD*]
- 2A.2.4** **R** An *MCD mortgage lender* may engage in *tying practices* where it can demonstrate to the *FCA* that the tied products or categories of product offered, on terms and conditions similar to each other, which are not made available separately, result in a clear benefit to the *consumer* taking due account of the availability and the prices of the relevant products offered on the market. This *rule* only applies to products which are marketed after 20 March 2014.
[Note: article 12(3) of the *MCD*]

2A.2.5

R

An *MCD mortgage lender* may require the *consumer* to hold a relevant insurance policy related to the *MCD regulated mortgage contract* but, where it does so, the *MCD mortgage lender* must accept an insurance policy from a supplier different to his preferred supplier where such policy has a level of guarantee equivalent to the one the *MCD mortgage lender* has proposed.

[**Note:** article 12(4) of the *MCD*]

2A

2A.3 Foreign currency loans

- 2A.3.1** **R** Where an *MCD regulated mortgage contract* relates to a *foreign currency loan*, at the time the *MCD regulated mortgage contract* is entered into the *MCD mortgage lender* must ensure:
- (1) the *consumer* has a right to convert the *MCD regulated mortgage contract* into an alternative currency under specified conditions; or
 - (2) there are other arrangements in place to limit the exchange rate risk to which the *consumer* is exposed under the *MCD regulated mortgage contract*.
- [Note: article 23(1) of the *MCD*]
- 2A.3.2** **G** The “other arrangements” referred to in ■ MCOB 2A.3.1R (2) may include:
- (1) a cap; or
 - (2) a risk warning (where a risk warning would be sufficient to limit the exchange rate risk (if any) to which the consumer is exposed).
- 2A.3.3** **G** Where:
- (1) an *MCD regulated mortgage contract* is denominated in pound sterling (“currency A”); and
 - (2) the *consumer* receives income or holds assets in currency A but also receives income or holds assets in another currency (“currency B”);
- the *MCD regulated mortgage contract* will not be a *foreign currency loan* unless the credit is to be repaid wholly or in part from the income received or assets held in currency B.
- 2A.3.4** **R** The alternative currency referred to in ■ MCOB 2A.3.1R (1) must be either:
- (1) the currency in which the *consumer* primarily receives income or holds assets from which the *credit* is to be repaid, as indicated at the time that the most recent affordability assessment in relation to the *regulated mortgage contract* was made; or

(2) pound sterling.

[Note: article 23(2) of the MCD]

2A.3.5

R

Where a *consumer* has a right to convert the *MCD regulated mortgage contract* into an alternative currency in accordance with ■ MCOB 2A.3.1R (1), the exchange rate at which the conversion is carried out must be the market exchange rate applicable on the day of application for conversion, unless otherwise specified in the *MCD regulated mortgage contract*.

[Note: article 23(3) of the MCD]

2A.3.6

R

A *firm* must disclose to the *consumer* its arrangements for complying with the obligations in ■ MCOB 2A.3.1 R in the *MCD regulated mortgage contract*.

[Note: article 23(6) of the MCD]



2A.4

Early repayment

- 2A.4.1
- R
- (1) An *MCD mortgage lender* must give a *consumer* who enters into an *MCD regulated mortgage contract* the right to discharge fully or partially his obligations under that *MCD regulated mortgage contract* prior to its expiry.

(2) If the *consumer* exercises the right in (1), the *MCD mortgage lender* must reduce the *total cost of the credit to the consumer* by an amount equal to the interest and costs for the remaining duration of the *MCD regulated mortgage contract*.

[Note: article 25(1) of the *MCD*]
- 2A.4.2
- R
- MCOB 2A.4.1R (1) does not prevent an *MCD mortgage lender* from imposing an *early repayment charge* in accordance with ■ MCOB 12.3.1 R.
- 2A.4.3
- G
- MCOB 7A.3 sets out the *MCOD* disclosure rules in relation to early repayment.

2A.5 Variable rate credits

2A

2A.5.1

R

Where the *borrowing rate* under an *MCD regulated mortgage contract* is variable, the *MCD mortgage lender* must:

- (1) ensure that any index or reference rate used to calculate that rate is clear, accessible, objective and verifiable by the parties to the *MCD regulated mortgage contract* and the *FCA*; and
- (2) keep a record of the index or reference rate used to calculate that rate for as long as the *MCD regulated mortgage contract* remains outstanding.

[**Note:** article 24 of the *MCD*]

2A



2A.6 Information free of charge

2A.6.1 **R** When an *MCD mortgage lender* or an *MCD mortgage credit intermediary*, provides information in compliance with the requirements in *MCOB* relating to an *MCD regulated mortgage contract*, it must provide that information free of charge.

[**Note:** article 8 of the *MCD*]

Chapter 3A

Financial promotions and communications with customers

3A.1 Application and purpose

Who?

3A.1.1

R

This chapter applies to a *firm*:

- (1) *communicating* information to a *customer* in relation to a *home finance transaction*; or
- (2) *communicating* or *approving* a *financial promotion* of *qualifying credit*, a *home reversion plan*, a *home purchase plan* or a *regulated sale and rent back agreement*.

3A.1.2

G

As a result of this chapter and **■ CONC 3**:

- (1) a *financial promotion* is not subject to **■ CONC 3** to the extent that it relates to *qualifying credit*; and
- (2) where a *firm* makes a communication which consists of a *financial promotion* of *qualifying credit* and a *financial promotion* of a different form of lending that is not *qualifying credit* (for example, an unsecured personal loan), the content of the latter will need to comply with **■ CONC 3**.

Authorised professional firms

3A.1.3

R

- (1) Except for **■ MCOB 3A.5**, **■ MCOB 3A** does not apply to an *authorised professional firm* in relation to the *communication* of a *financial promotion* if the following conditions are satisfied:
 - (a) the *firm's* main business must be the practice of its profession;
 - (b) the *financial promotion* must be made for the purposes of, and incidental to, the promotion or provision by the *firm* of:
 - (i) its professional services; or
 - (ii) its *non-mainstream regulated activities* (see **■ PROF 5.2** (Nature of non-mainstream activities)); and
 - (c) the *financial promotion* must not be *communicated* on behalf of another *person* who would not be able lawfully to *communicate* the *financial promotion* if they were acting in the course of business.
- (2) in (1)(a), a *firm's* professional business practice is not the “main business” of the *firm* unless the proportion of income it derives from professional fees is, during its annual accounting period, at least 50%

of the *firm's* total income (a temporary variation of not more than 5% may be disregarded for this purpose).

(3) in (1)(b)(i), “professional services” means services:

- (a) which do not constitute a *regulated activity*; and
- (b) the provision of which is supervised and regulated by a *designated professional body*.

Application for a financial promotion of qualifying credit

3A.1.4

R

This chapter applies to the *communication or approval of a financial promotion of qualifying credit* as follows:

Application and purpose	MCOB 3A.1
The fair, clear and not misleading rules	MCOB 3A.2, except MCOB 3A.2.5 R
Other general requirements for financial promotions	MCOB 3A.3
Qualifying credit financial promotions	MCOB 3A.4
MCD financial promotions (note 1)	MCOB 3A.5
Systems and controls	MCOB 3A.9
Note 1: This item does not apply to non-MCD <i>financial promotions of qualifying credit</i> .	

Application for a financial promotion of a home reversion plan

3A.1.5

R

This chapter applies to the *communication or approval of a financial promotion of a home reversion plan* as follows:

Application and purpose	MCOB 3A.1
The fair, clear and not misleading rules	MCOB 3A.2, except MCOB 3A.2.5 R
Other general requirements for financial promotions	MCOB 3A.3
Home reversion plan financial promotions	MCOB 3A.7
Systems and controls	MCOB 3A.9

Application for a financial promotion of a regulated sale and rent back agreement

3A.1.6

R

This chapter applies to the *communication or approval of a financial promotion of a regulated sale and rent back agreement* as follows:

Application and purpose	MCOB 3A.1
The fair, clear and not misleading rules	MCOB 3A.2, except MCOB 3A.2.5 R
Other general requirements for financial promotions	MCOB 3A.3
Sale and rent back financial promotions	MCOB 3A.8

Systems and controls

MCOB 3A.9

Application for a financial promotion of a home purchase plan

3A.1.7

R

This chapter applies to the *communication* or *approval* of a *financial promotion* of a *home purchase plan* as follows:

Application and purpose

MCOB 3A.1

Fair, clear and not misleading rule
for approval of home purchase plan
financial promotions

MCOB 3A.2.5 R

Home purchase plan financial
promotions

MCOB 3A.6

Exemptions

3A.1.8

R

Except for ■ MCOB 3A.2.4R (2) and ■ MCOB 3A.5, this chapter does not apply to a *firm* in relation to a *financial promotion* of *qualifying credit* that is of a kind listed in ■ MCOB 3A.1.9 R, except if the *firm* approves the *financial promotion*, then the following apply:

- (1) ■ MCOB 3A.1 (Application and purpose);
- (2) ■ MCOB 3A.2.4 R (Fair, clear and not misleading financial promotions);
- (3) ■ MCOB 3A.4.4 G to ■ MCOB 3A.4.7 G (Approval of qualifying credit promotions; No approval of real time qualifying credit promotions; Approval of qualifying credit promotions when not all the rules apply); and
- (4) if the *firm* approves a non-real time *financial promotion* of *qualifying credit* by an *overseas person* ■ MCOB 3A.4.8 R (Non-real time qualifying credit promotions for overseas persons) applies.

3A.1.9

R

This table belongs to ■ MCOB 3A.1.8 R.

Exemptions

This chapter does not apply to the following:

- (1) a *financial promotion* which contains only one or more of the following
 - (a) the name of the *firm* (or its *appointed representative*);
 - (b) a logo;
 - (c) a contact point (address (including an email address), telephone or facsimile number);
 - (d) a brief, factual statement of the *firm's* (or its *appointed representative's*) main occupation;
- (2) a *financial promotion* which can lawfully be *communicated* by an *unauthorised person* without *approval*;
- (3) a *financial promotion* communicated from outside the *United Kingdom* which would be exempt under articles 30, 31, 32 or 33 of the *Financial Promotion Order* (Overseas communicators) if the office from which the *financial promotion* is *communicated* were a separate *unauthorised person* (but see GEN 4.4.1 R (Business for private customers from non-UK offices)).

Combination of exemptions

- 3A.1.10** **R** A firm may rely on more than one exemption in relation to the same financial promotion.
- 3A.1.11** **G** Firms are reminded that financial promotions (including those which are exempt) may be subject to more general rules, including Principle 7 (Communications with clients), ■ SYSC 3 to ■ SYSC 10 (Systems and controls), and ■ MCOB 3A.2.4 R (Fair, clear and not misleading communications).
- 3A.1.11A** **G**
- (1) Firms are also reminded that the effect of section 55NA of the Act is that a firm is unable to approve a financial promotion unless:
 - (a) the firm is a permitted approver in relation to the financial promotion; or
 - (b) an approver permission exemption applies.
 - (2) ■ SUP 6A contains guidance on applying for approver permission.

Territorial scope

- 3A.1.12** **G** The territorial scope for rules relating to communicating information to a customer is set out in ■ MCOB 1.3.1 R.
- 3A.1.13** **R** This chapter applies to a firm in relation to:
- (1) the communication of a financial promotion to a person in the United Kingdom;
 - (2) the communication of a cold call of qualifying credit, a home reversion plan or a regulated sale and rent back agreement, unless it is made from a place, and for the purposes of a business which is only carried on, outside the United Kingdom;
 - (3) the approval of a non-real time financial promotion of qualifying credit, a home reversion plan or a regulated sale and rent back agreement for communication to a person in the United Kingdom.
 - (4) [deleted]
 - (5) [deleted]
- 3A.1.14** **G** The application under ■ MCOB 3A.1.13 R is relevant both when a firm communicates a financial promotion itself and when a firm approves a non-real time financial promotion for communication by others. However, see also ■ MCOB 3A.1.15 R (Exceptions to territorial scope: rules without territorial limitation for approval of financial promotions).

Exceptions to territorial scope: rules without territorial limitation for approval of financial promotions

- 3A.1.15** **R** Subject to ■ MCOB 3A.1.16 R, the following parts of this chapter apply without any territorial limitation if a firm approves a financial promotion of

qualifying credit, a home reversion plan or a regulated sale and rent back agreement:

- (1) ■ MCOB 3A.1 (Application and purpose);
- (2) *rules* requiring a *financial promotion* to be fair, clear and not misleading (see ■ MCOB 3A.2.4 R); and
- (3) provisions regarding the *approval of financial promotions* (except those relating to *approval of financial promotions of qualifying credit* provided by an *overseas person*) (see ■ MCOB 3A.4.4 G to ■ MCOB 3A.4.7 G, ■ MCOB 3A.7.1 R and ■ MCOB 3A.8.5 R).

**Exceptions to territorial scope: financial promotions of
qualifying credit relating to distance contracts**

3A.1.16 R

[deleted]

Principles 6 and 7

3A.1.17 G

This chapter amplifies, for activities within its scope, *Principle 6* (Customers' interests) and *Principle 7* (Communications with clients).

3A.2 The fair, clear and not misleading rules

Fair, clear and not misleading communications

- 3A.2.1** **R** (1) When a *firm* communicates information to a *customer*, it must take reasonable steps to do so in a way that is fair, clear and not misleading.
- (2) A *firm* must be able to show that it has taken reasonable steps to ensure that any *illustration* or *ESIS* is fair, clear and not misleading.

- 3A.2.2** **G** The purpose of ■ **MCOB 3A.2.1R** is to restate, in a slightly amended form and as a separate *rule*, the part of *Principle 7* (Communications with clients) that relates to communication of information.

- 3A.2.2A** **G** A *firm* is reminded of its obligations under ■ **ESG 4.3.1R** in relation to a communication, or when it *communicates* or *approves a financial promotion*, that references the *sustainability characteristics* of a product or service.

Communications to customers with different addresses

- 3A.2.3** **G** Where:
- (1) there are two or more *customers* or prospective *customers* in relation to the same *home finance transaction*;
 - (2) a rule in *MCOB* requires the provision of information to such *customers*; and
 - (3) the *customers* have different addresses
- a *firm* should send the information to each address. If the *customers* share the same address, it will be sufficient to send a single copy of the information addressed to each of the *customers*.

Fair, clear and not misleading financial promotions

- 3A.2.4** **R** (1) A *firm* communicating or approving a *non-real time financial promotion* of *qualifying credit* other than in (2), for a *home reversion plan* or a *regulated sale and rent back agreement* must be able to show that it has taken reasonable steps to ensure that the *non-real time financial promotion* is fair, clear and not misleading.

- (2) A firm communicating a financial promotion, or approving a non-real time financial promotion in relation to an MCD regulated mortgage contract must ensure that it:
- (a) is fair, clear and not misleading; and

(b) in particular, does not contain wording that may create false expectations for a consumer regarding the availability or the cost of a credit.

[Note: article 10 of the MCD]

Fair, clear and not misleading rule: approval of home purchase plan financial promotions

3A.2.5

R

A firm which approves a financial promotion of a home purchase plan must take reasonable steps to ensure that the financial promotion is fair, clear and not misleading.

Restrictions on use of terms

3A.2.6

R

Any communication, including a non-real time financial promotion, must describe:

(1) any early repayment charge as an “early repayment charge” and not use any other expression to describe such charges;

(2) any higher lending charge as a “higher lending charge” and not use any other expression to describe such charges;

(3) any lifetime mortgage as a “lifetime mortgage” and not use any other expression to describe such a mortgage;

(4) any home reversion plan as a “home reversion plan” and not use any other expression to describe it; and

(5) any regulated sale and rent back agreement as a “sale and rent back agreement” and not use any other expression such as “equity release” to describe it.

3A.3 Other general requirements for financial promotions

Financial promotions to be balanced and with appropriate warnings

- 3A.3.1** **R** A firm which communicating or approving a financial promotion within **MCOB 3A.2.4 R** must, in addition, ensure that the financial promotion:
- (1) is accurate;
 - (2) is balanced and, in particular, does not emphasise any potential benefits of the *MCD regulated mortgage contract*, other *qualifying credit*, *home reversion plan* or *regulated sale and rent back agreement* without also giving a fair and prominent indication of any relevant risks;
 - (3) is sufficient for, and presented in a way that is likely to be understood by, the average member of the group to whom it is directed, or by whom it is likely to be received;
 - (4) makes it clear, where applicable, that the credit is secured on the *customer's home*;
 - (5) does not disguise, omit, diminish or obscure important items, statements or warnings; and
 - (6) where it contains a comparison or contrast, presents the comparison or contrast in a fair and balanced way and ensures that is meaningful.

Name and contact point

- 3A.3.2** **R** A non-real time financial promotion must contain the name of the firm or its appointed representative and either an address or a contact point from which an address is available.

Solicited financial promotions

- 3A.3.3** **R** A financial promotion is not a solicited financial promotion unless a firm ensures that:
- (1) it is clear from all the circumstances when the call, visit or dialogue is initiated or requested that, during the course of the visit, call or dialogue, a financial promotion would be made; and

		<p>(2) a <i>person</i> is not to be treated as expressly requesting a call, visit or dialogue:</p> <p>(a) because they omit to indicate that they do not wish to receive any or any further visits or calls or to engage in any or any further dialogue;</p> <p>(b) because they agree to standard terms that state that such visits, calls or dialogues will take place, unless they have signified clearly that, in addition to agreeing to the terms, they are willing for them to take place.</p>
3A.3.4	R	<p>If a <i>financial promotion</i> is solicited by a <i>person</i> ("R"), it is treated as also having been solicited by any other <i>person</i> to whom it is made at the same time as R if that other <i>person</i> is a close relative of R or is expected to enter into a <i>home reversion plan</i>, a <i>regulated sale and rent back agreement</i> or any contract for <i>qualifying credit</i> jointly with R.</p>
3A.3.5	R	<p>Prohibition on cold calls</p> <p>A <i>firm</i> must not make a <i>cold call</i> of <i>qualifying credit</i>, a <i>home reversion plan</i> or a <i>regulated sale and rent back agreement</i> unless the <i>customer</i> has an established existing <i>customer</i> relationship with the <i>firm</i> and the relationship is such that the <i>customer</i> envisages receiving such <i>financial promotions</i>.</p>

3A.4 Qualifying credit financial promotions

Real time qualifying credit promotions

3A.4.1

R

A *firm* must ensure that an individual who makes a real time financial promotion of *qualifying credit* on the *firm's* behalf:

- (1) makes the purpose(s) of the *financial promotion* clear at the initial point of communication, and identifies themselves and the *firm* which they represent;
- (2) if the time and method of *communication* were not previously agreed by the recipient:
 - (a) checks that the recipient wishes them to proceed;
 - (b) terminates the *communication* if the recipient does not wish them to proceed (but may ask for another appointment);
 - (c) recognises and respects, promptly, the right of the recipient to:
 - (i) end the *communication* at any time;
 - (ii) refuse any request for another appointment;
- (3) gives any *person* with whom they arrange an appointment a contact point;
- (4) does not *communicate* with a *person*:
 - (a) at an unsocial hour, unless the *person* has previously agreed to such a *communication*;
 - (b) on an unlisted telephone number, unless the *person* has previously agreed to such calls on that number.

3A.4.2

G

In ■ MCOB 3A.4.1R (4)(a) an unsocial hour usually means on a Sunday or before 9am or after 9pm on any other *day*. It could also mean other *days* of the week or other times if the *firm* knows that a particular *customer* would not wish to be called on that *day* or at that time for reasons of, for example, religious faith or night shift working.

3A.4.3

G

The requirements of ■ MCOB 3A.4.1 R and ■ MCOB 3A.4.2 G do not prevent, for example, a telephone call centre which has received a call from a *customer* at an hour generally regarded as unsocial, either responding to that call or asking during the call if the *customer* would like details of other *qualifying credit*.

Approval of qualifying credit promotions

- 3A.4.4** **G** Most of the *rules* in this chapter apply when a *firm* *approves* a *financial promotion* of *qualifying credit* in the same way as when a *firm* *communicates* a *financial promotion* of *qualifying credit* itself. Therefore, a *firm* has a similar responsibility for a *financial promotion* of *qualifying credit* that it *approves*, as for one that it *communicates*.

No approval of real time qualifying credit promotions

- 3A.4.5** **R** A *firm* must not *approve* a *financial promotion* of *qualifying credit* made in the course of a personal visit, telephone conversation or other interactive dialogue.

Approval of qualifying credit promotions when not all the rules apply

- 3A.4.6** **R** If a *firm* *approves* a *financial promotion* of *qualifying credit* in circumstances in which one or more of the *rules* in this chapter are expressly disappplied, the *approval* must be given on terms that it is limited to those circumstances.

- 3A.4.7** **G** If an *approval* is limited under **■ MCOB 3A.4.6 R**, and an *unauthorised person* *communicates* the *financial promotion* to *persons* not covered by the *approval*, the *unauthorised person* may commit an offence under section 21(1) of the Act (Restrictions on financial promotion). A *firm* giving a limited *approval* may wish to advise the *unauthorised person* accordingly.

Financial promotions for the business of overseas persons

- 3A.4.8** **R** A *firm* must not *communicate* or *approve* a *financial promotion* which relates to *qualifying credit* provided by an *overseas person*, unless:
- (1) the *financial promotion* of *qualifying credit* makes clear which *firm* has *approved* or *communicated* it and, where relevant, explains:
 - (a) that the *rules* made under the Act for the protection of *customers* do not apply;
 - (b) the extent and level to which the *compensation scheme* will be available or, if the scheme will not be available, a statement to that effect; and
 - (c) if the communicator wishes, the protection or compensation available under another system of regulation; and
 - (2) the *firm* has taken reasonable steps to satisfy itself that the *overseas person* will deal with *customers* in the *United Kingdom* in an honest and reliable way.

3A.5 MCD financial promotions

3A

3A.5.1

R

- (1) When *communicating* or *approving* a *financial promotion* concerning an *MCD regulated mortgage contract* which indicates an interest rate or any figures relating to the cost of the *credit* to the *consumer*, a *firm* must ensure that the *financial promotion* includes standard information which specifies in a clear, concise and prominent way:
- (a) the identity of the *MCD creditor* or, where applicable, the *MCD mortgage credit intermediary* or *appointed representative*;
 - (b) where applicable, that the *MCD regulated mortgage contract* will be secured by a mortgage or another comparable security or by a right related to residential immovable property;
 - (c) the *borrowing rate*, indicating whether this is fixed or variable or a combination of both, together with particulars of any charges included in the *total cost of the credit to the consumer*;
 - (d) the *total amount of the credit*;
 - (e) the *APRC* which must be included at least as prominently as any interest rate;
 - (f) where applicable, the duration of the *MCD regulated mortgage contract*;
 - (g) where applicable, the amount of the instalments;
 - (h) where applicable, the *total amount payable* by the *consumer*;
 - (i) where applicable, the number of instalments; and,
 - (j) where applicable, a warning regarding the fact that possible fluctuations of the exchange rate could affect the amount payable by the *consumer*.

[Note: article 11(1) and (2) of the *MCD*]

- (2) The information listed in (1), other than that listed in (a), (b) or (j) thereof, must be specified by means of a representative example.

[Note: article 11(3) of the *MCD*]

- (3) For the purposes of the requirement in (2), to specify the information in (1), including the *APRC*, by means of a representative example, an example is not representative unless the *firm* reasonably expects that at least 51% of *consumers*:
- (a) responding to the *financial promotion*; and
 - (b) who enter into a *MCD regulated mortgage contract* which is the subject of the *financial promotion*;

would be charged the specified *APRC* or below.

[**Note:** article 11(3) of the *MCD*]

- (4) Where the conclusion of a contract regarding an ancillary service, in particular insurance, is compulsory in order to obtain the *MCD regulated mortgage contract* or to obtain it on the terms and conditions marketed, and the cost of that service cannot be determined in advance, the obligation to enter into that contract must be stated in a clear, concise and prominent way, together with the *APRC*.

[**Note:** article 11(4) of the *MCD*]

- (5) The information referred to in (1) and (4) must be easily legible or clearly audible as appropriate, depending on the medium used for advertising.

[**Note:** article 11(5) of the *MCD*]

3A.5.2

G

Inclusion of a representative example, where required, does not preclude the inclusion of additional cost information, relating to individual products or types of product, subject to this being fair, clear and not misleading. For example, a *firm* may wish to include a table setting out details of a number of products, for comparative purposes, with the required overall representative example stated (being representative of all agreements expected to result from the *financial promotion*, and shown with sufficient prominence).



3A.6 Home purchase plan financial promotions

3A

APR equivalent for home purchase plan financial promotions.....

3A.6.1

R

If a *firm* uses a figure equivalent to an *APR* in a communication of a *financial promotion* of a *home purchase plan*, when calculating that figure it must use an approach equivalent to the *APR rules*.

3A



3A.7 Home reversion plan financial
promotions

3A.7.1

R

No approval of real time home reversion plan promotions.....

A firm must not approve a financial promotion of a home reversion plan made in the course of a personal visit, telephone conversation or other interactive dialogue.

3A.8 Sale and rent back financial promotions

Guidance on fair, clear and not misleading: sale and rent back financial promotions

- 3A.8.1** **G** The effect of giving no less prominence to the possible disadvantages than to the benefits associated with a feature will depend on the context of the promotion. The costs, restrictions or conditions relating to a feature, such as any option available, should be detailed for the following non-exhaustive examples:
- (1) where any part of the discount on the market value of the property is to be repaid to the *consumer* after a qualifying period; and
 - (2) where a *consumer* is to benefit from shared appreciation in the value of the property.

Ban on SRB leaflet dropping

- 3A.8.2** **R** A *regulated sale and rent back firm* must not *communicate* an unsolicited *financial promotion* that relates to a *regulated sale and rent back agreement* to a potential *SRB agreement seller* in the form of a leaflet or brochure or similar.

Non-real time financial promotions to customers and advertisements

- 3A.8.3** **R** A *non-real time financial promotion* relating to a *regulated sale and rent back agreement* and any other advertisement which is issued by a *regulated sale and rent back firm* that could lead to the conclusion of a *regulated sale and rent back agreement*, must (unless it is of a kind listed in MCOB 3A.1.9R(1)) contain a risk warning that uses the following wording:

"If you enter into a sale and rent back agreement you are unlikely to get the market value of your home and, as a tenant, may only be able to remain there for a limited period. There may be other options available. Please ask for a key terms statement."

Exploitation of customer

- 3A.8.4** **R** A *firm* must not in any *financial promotion* of a *regulated sale and rent back agreement* exploit the vulnerable nature or circumstances of any *customer* who may be in financial difficulties and at risk of losing his or her home. As such, the *firm* must avoid using phrases or terms such as "fast sales", "rescue" or "cash quickly" or any other similar expression.

3A.8.5	<div data-bbox="363 313 395 347">R</div> <div data-bbox="419 230 1406 302">No approval of real time financial promotions of a regulated sale and rent back agreement</div> <div data-bbox="419 313 1406 412">A <i>firm</i> must not approve a <i>financial promotion</i> of a <i>regulated sale and rent back agreement</i> made in the course of a personal visit, telephone conversation or other interactive dialogue.</div>
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3A.9 Systems and controls

Record keeping

- 3A.9.1

R

A firm must make an adequate record of each *non-real time financial promotion* of *qualifying credit*, *home reversion plan* or *regulated sale and rent back agreement* which it has confirmed as complying with the *rules* in this chapter. The record must be retained for a year from the date at which the *financial promotion* was last *communicated*.
- 3A.9.2

G

■ MCOB 2.8 (Record keeping) applies to the form in which records required in accordance with this chapter must be kept.

Chapter 3B

MCD general information

3B.1 Provision of general information

- 3B.1.1** **R** This chapter applies to a *firm* that is an *MCD mortgage lender* or a *tied MCD mortgage credit intermediary*.
- 3B.1.2** **R** A *firm* must make available clear and comprehensible information about *MCD regulated mortgage contracts* at all times on paper, or on another *durable medium* or in electronic form, that includes:
- (1) the identity and the geographical address of the *firm*;
 - (2) the purposes for which the *credit* may be used;
 - (3) the forms of security;
 - (4) the possible duration of the *MCD regulated mortgage contracts*;
 - (5) the types of available *borrowing rate*, indicating whether fixed or variable or both, with a short description of the characteristics of a fixed and variable rate, including related implications for the *consumer*;
 - (5A) where contracts that reference a *benchmark* are available, the names of the benchmarks and of their administrators and the potential implications on the consumer;
 - (6) where *foreign currency loans* are available, an indication of the foreign currency or currencies, including an explanation of the implications for the *consumer* where the *credit* is denominated in a foreign currency;
 - (7) a representative example of the *total amount of credit*, the *total cost of the credit to the consumer*, the total amount payable by the consumer and the *APRC*;
 - (8) an indication of possible further costs, not included in the *total cost of the credit to the consumer*, to be paid in connection with an *MCD regulated mortgage contract*;
 - (9) the different options available for repaying the *credit* to the *MCD mortgage lender*, including the number, frequency and amount of the regular repayment instalments;
 - (10) where applicable, a clear and concise statement that compliance with the terms and conditions of the *MCD regulated mortgage contract* does not ensure repayment of the *total amount of credit*;
 - (10A) a description of the conditions directly relating to early repayment;

- (11) whether a valuation of the property is necessary and, where applicable, who is responsible for ensuring that the valuation is carried out, and whether any related costs arise for the *consumer*;
- (12) an indication of ancillary services the *consumer* is obliged to acquire in order to obtain the *credit* or to obtain it on the terms and conditions marketed and, where applicable, a clarification that the ancillary services may be purchased from a provider that is not the *MCD mortgage lender*; and
- (13) a general warning concerning possible consequences of non-compliance with the commitments linked to the *MCD regulated mortgage contract*.

[Note: article 13 of the *MCD*]

3B.1.3

G

- (1) A *firm* may make the information in ■ MCOB 3B.1.2 R available by publishing it on a website.
- (2) The *MCD regulated mortgage contracts* in ■ MCOB 3B.1.2 R are those offered or entered into by the *firm*.

3B.1.4

G

- (1) Article 2.2(f) of the *benchmarks regulation* provides that the regulation does not apply to a natural or legal person that grants or promises to grant credit in the course of that person's trade, business or profession. However, that exclusion only applies insofar as that person publishes or makes available to the public that person's own variable or fixed borrowing rates set by internal decisions and applicable only to financial contracts entered into by that person or by a company within the same group with their respective clients.
- (2) The *FCA* considers that a *firm* (F) is not required to include details about a *benchmark* (B) under ■ MCOB 3B.1.2R(5A) insofar as the exclusion in article 2.2(f) of the *benchmarks regulation* applies to F in respect of B.

Chapter 4

Advising and selling standards

4.1

Application

Who?

4.1.1

R

This chapter applies to a *firm* in a category listed in column (1) of the table in ■ MCOB 4.1.2 R in accordance with column (2) of that table.

4.1.2

R

This table belongs to ■ MCOB 4.1.1 R

(1) Category of firm	(2) Applicable section
<i>mortgage lender</i>	except in relation to <i>lifetime mortgages</i> : MCOB 4.1 to MCOB 4.4A, 4.6A, MCOB 4.8A in accordance with MCOB 4.1.2A R and MCOB 4.9
<i>mortgage adviser</i>	except in relation to <i>lifetime mortgages</i> : whole chapter except MCOB 4.10
<i>mortgage arranger</i>	except in relation to <i>lifetime mortgages</i> : whole chapter except MCOB 4.7A and MCOB 4.10
<i>home purchase provider</i>	MCOB 4.1, MCOB 4.2 and MCOB 4.10 (except MCOB 4.10.5 G to MCOB 4.10.7 G). MCOB 4.4A and MCOB 4.8A in accordance with MCOB 4.1.2B R and MCOB 4.10.
<i>home purchase adviser</i>	MCOB 4.1, MCOB 4.2, MCOB 4.5, MCOB 4.6 and MCOB 4.10. MCOB 4.4A, MCOB 4.7A and MCOB 4.8A in accordance with MCOB 4.10
<i>home purchase arranger</i>	As for a <i>home purchase adviser</i> except MCOB 4.10.5A R to MCOB 4.10.9A R, MCOB 4.10.13 R and MCOB 4.7A do not apply
<i>equity release provider</i> <i>equity release adviser</i> <i>equity release arranger</i>	see MCOB 8.3for the application of this chapter
<i>SRB adviser</i>	MCOB 4.1, MCOB 4.2, MCOB 4.5, MCOB 4.6 and MCOB 4.11
<i>SRB arranger</i>	MCOB 4.1, MCOB 4.2, MCOB 4.5, MCOB 4.6 and MCOB 4.11
<i>SRB agreement provider</i>	MCOB 4.1, MCOB 4.2 and MCOB 4.11

4.1.2A	R	■ MCOB 4.8A only applies to a <i>mortgage lender</i> in relation to <i>entering into a regulated mortgage contract</i> where there is no <i>firm</i> which is <i>arranging (bringing about) the regulated mortgage contract</i> to which ■ MCOB 4.8A applies.
4.1.2B	R	■ MCOB 4.8A only applies to a <i>home purchase provider</i> (as provided in ■ MCOB 4.10.9B R) in relation to <i>entering into a home purchase plan</i> where there is no <i>firm</i> which is <i>arranging (bringing about) the home purchase plan</i> to which ■ MCOB 4.8A applies (as provided in ■ MCOB 4.10.9B R).
4.1.2C	G	■ MCOB 4.1.2A R and ■ MCOB 4.1.2B R mean that the provisions in ■ MCOB 4.8A on <i>execution-only sales</i> , including the prohibition on entering into them in the circumstances specified in that section, only apply to sales by <i>mortgage lenders</i> or <i>home purchase providers</i> where there is no intermediary <i>firm</i> to which that section applies.
4.1.2D	G	■ MCOB 4.1.2A R and ■ MCOB 4.1.2B R mean that the situations where ■ MCOB 4.8A applies to a <i>mortgage lender</i> or <i>home purchase provider</i> include where a <i>mortgage intermediary</i> or <i>home purchase intermediary</i> has been involved in <i>arranging a regulated mortgage contract</i> or <i>home purchaser plan</i> but is no longer involved in the transaction.
4.1.3	R	<p>What?</p> <p>.....</p> <p>This chapter applies if a <i>firm</i> in the course of carrying on a <i>home finance activity</i>: enters into, advises on or arranges a home finance transaction or a variation of the terms of a <i>home finance transaction</i>.</p>
4.1.4	R	<p>(1) ■ MCOB 4.4A (Initial disclosure requirements) applies only in relation to varying the terms of a <i>regulated mortgage contract</i> entered into by the <i>customer</i> in any of the following ways:</p> <ul style="list-style-type: none"> (a) adding or removing a party; (b) taking out a further advance; or (c) switching all or part of the <i>regulated mortgage contract</i> from one interest rate to another. <p>(2) Otherwise, this chapter, ■ MCOB 4, applies in relation to any form of variation of a <i>regulated mortgage contract</i>.</p>
4.1.5	R	In relation to an <i>equity release transaction</i> , this chapter is modified by ■ MCOB 8 (Equity release: advising and selling standards).
4.1.6	G	[deleted]
4.1.7	G	[deleted]

4.1.8

G

The *FCA* would not view the removal of a party to the *regulated mortgage contract* following the death of that party (and where no other variation is proposed) as a variation for the purposes of ■ MCOB 4.1.4 R(1).

4.2 Purpose

4.2.1

G

- (1) This chapter amplifies *Principle 6* (Customers' interests), *Principle 7* (Communications with clients) and *Principle 9* (Customers: relationships of trust).
- (2) The purpose of this chapter is to ensure that:
 - (a) *customers* are adequately informed about the range of *home finance transactions* available from firms and the basis of their remuneration;
 - (b) where advice is given, it is suitable for the *customer*.
 - (c) the *firm* provides advice whenever it makes a sale during which there is spoken or other interactive dialogue between the *firm* and the *customer* (with exceptions for *high net worth mortgage customers* and *professional customers*, and for loans which are solely for a business purpose);
 - (d) when there is no spoken or other interactive dialogue between the *firm* and the *customer* during the sale, the *firm* is able to provide an execution-only service except for certain vulnerable *customers* (*customers for regulated sale and rent back and equity release transactions*; *customers* whose main purpose is debt consolidation; and *customers* who are using the transaction in order to exercise a statutory "right to buy") who are given advice in every case;
 - (e) *execution-only sales* are only provided where the *customer* has been warned about the implications of proceeding without advice, or where the *customer* has rejected advice which has been given, and has specifically instructed the *firm* that he wishes to do so; and
 - (f) except in the case of *regulated sale and rent back transactions*, *customers* have the right to reject advice and proceed on an execution-only basis.
- (3) This chapter also implements certain requirements of the *Distance Marketing Directive* in relation to *distance mortgage mediation contracts* and *distance home purchase mediation contracts*.

4.4A Initial disclosure requirements

Description of a firm's services

4.4A.1

R

Using the methods and at the times specified in this section, a *firm* must provide the *customer* with the following information:

- (1) whether there are any limitations in the range of products that it will offer to the *customer*, and if so what those are;
- (1A) if there are any limitations in the range of the *firm's* products about which it will provide information during a spoken or other interactive dialogue with the customer, what those limitations are;
- (2) the basis on which the *firm* will be remunerated; and
- (3) the availability of alternative finance options.

Range of products

4.4A.2

R

- (1) The limitations in ■ MCOB 4.4A.1 R include any limitations on the *regulated mortgage contracts* the *firm* will consider from within the relevant market. A *firm* which is offering services to a *customer* in respect of more than one type of relevant market must describe its services in relation to each such relevant market.
- (2) For these purposes, there are two relevant markets for *regulated mortgage contracts* (apart from *lifetime mortgages*): one for *regulated mortgage contracts* that are not for a business purpose; and one for *regulated mortgage contracts* that are. A *firm* offering services in relation to loans for a business purpose must make that clear in its disclosure under ■ MCOB 4.4A.1R (1).
- (3) If a *firm* will not, as part of its services, consider *direct deals*, it need not treat that as a limitation in its product range, but the *firm* must tell the *customer* as part of the disclosure under ■ MCOB 4.4A.1R (1) that it will not consider *direct deals*.

4.4A.3

G

- (1) A *firm* that only offers products from one part of a relevant market (for example, just *bridging loans*) should not disclose its service as unlimited.
- (2) When considering whether there are any limitations in its product range across the relevant market, a *firm* need not take account of the existence of exclusive deals which a *mortgage lender* offers to be sold by one or a limited number of mortgage intermediaries only (and not generally by *mortgage intermediaries* across the relevant market).

- 4.4A.3A** G In making its disclosure under ■ MCOB 4.4A.1R(1), a *firm* should indicate, for each relevant market, whether this is across *first charge legal mortgages*, *second charge regulated mortgage contracts* or both.
- 4.4A.3AA** G
- (1) ■ MCOB 4.4A.1R(1A) addresses situations in which a *firm* may wish to provide information in relation to a range of products that is narrower than the full range of products offered by it to *customers*. For example, if a *customer* visits a branch of a *mortgage lender* and requests information on the mortgages offered by that lender, the lender may wish to only provide information on the mortgages which can be obtained in branch, even though it offers different mortgage products through other sales channels (such as online). A *firm* must inform a *customer* where it is limiting the provision of information in this way.
 - (2) ■ MCOB 4.4A.1R(1A) builds on ■ MCOB 4.4A.1R(1) and ■ MCOB 4.4A.2R (which, amongst other things, have the effect that, when a *firm* gives advice, any limitations on the mortgages the *firm* will consider from within the relevant market must be disclosed). Its purpose is to make it clear that, in the case of interactions that preserve the possibility of an *execution-only sale*, if a dialogue with the *customer* permitted by ■ MCOB 4.8A.7AR will cover only a sub-set of the mortgages offered by the *firm*, this must be disclosed.
- 4.4A.4** R
- (1) If a *firm* is not offering to the *customer* products from an unlimited range from across the relevant market, in its disclosure on product range in ■ MCOB 4.4A.1 R, the *firm* must:
 - (a) where it is an *MCD mortgage credit intermediary*, list the names of all the *mortgage lenders* whose products it is offering; or
 - (b) where it is not an *MCD mortgage credit intermediary*, either
 - (i) comply with (a); or
 - (ii) inform the *customer* of the number of *mortgage lenders* whose products it is offering and that he has the right to request a list of those *mortgage lenders*.
 - (2) If a *customer* requests the list in (1)(b)(ii), the *firm* must provide it in a *durable medium* as soon as possible following the request and in any event within five *business days*. The list must also indicate whether the *firm* offers all of the products generally available from each *mortgage lender* on the list.
 - (3) An *MCD mortgage credit intermediary* must only disclose that it is independent if its consideration of *MCD regulated mortgage contracts* across the market is unlimited.
- [Note: articles 15(1)(c) and 22(4) of the *MCD*]
- 4.4A.5** G A *firm* may be able to describe its product range as unlimited even if it offers its *customers* only a selection of the *regulated mortgage contracts* available from the relevant market, or uses 'panels'. The *firm* would need to ensure that any panel, or selection of products, is sufficiently broad in its composition that it is representative of products from across the market, that it is reviewed regularly, and that its use does not materially disadvantage any

4.4A.6

G

customer. In such a case, a *firm* should ensure that its analysis of the market and of the available *regulated mortgage contracts* is kept adequately up to date. For example, a *firm* would need to update its selection of regulated mortgage contracts if it became aware that a *regulated mortgage contract* had become generally available offering an improved product feature, or a better interest rate, when compared with the *regulated mortgage contracts* currently in the *firm's* selection.

The disclosure required by ■ MCOB 4.4A.1R(1) and ■ (1A), ■ MCOB 4.4A.2R and ■ MCOB 4.4A.4R(1) about limitations in product range and information provision, and about *direct deals*, should be expressed in simple, clear terms. A *firm* may wish to consider using a sentence (or sentences) appropriate to the circumstances, along the following lines:

- “We are not limited in the range of mortgages we will consider for you.”
- “We offer a comprehensive range of mortgages from across the market, but not deals that you can only obtain by going direct to a lender.”
- “We only offer mortgages from [number] lender(s). We can provide you with a list of these.”
- “We only offer mortgages from [name of lender(s)].”
- “We only offer some, but not all, of the mortgages from [number] lender(s). We can provide you with a list of these.”
- “We only offer some, but not all, of the mortgages from [name of lender(s)].”
- “We only sell bridging finance products from [name of lender(s)]. We do not offer products from across the mortgage market.”
- “The information provided only covers the mortgages we offer in branch, and not those available through [other sales channels through which the firm offers mortgages].”

4.4A.7

G

- (1) *Firms* are reminded that, in the light of the *rules* and *guidance* in SYSC, they should have adequate systems and controls in place to ensure that the disclosure they make to a *customer* about their service reflects the service the *customer* is actually offered.
- (2) *Firms* are also reminded that *Principle 7* (Communications with clients) and MCOB 3A.2.1R (Fair, clear and not misleading communications) are also relevant to how they describe their services, including in any business name they adopt. For example, a *firm* should not call itself an “independent mortgage adviser” unless its product range across the relevant market is unlimited.
- (3) A *firm* that offers a different service for different product types should not disclose that it offers one type of service for its business as a whole. For example, a *firm* that provides independent advice on retail investment products but only offers a limited range of *regulated mortgage contracts* should ensure it discloses to the *customer* that the service is different for the different products.
- (4) There are additional rules about complying with ■ MCOB 4.4A.1R (1) in relation to home purchase plans and equity release transactions at ■ MCOB 4.10.3B R and ■ MCOB 8.3.2B R.

4.4A.8

R

Basis of remuneration

- (1) The information about the basis of remuneration required by ■ MCOB 4.4A.1R (2) must include all relevant information, including the following details:

- (a) any fees which the *firm* will charge to the *customer*;
- (b) when any such fees will be payable and, if applicable, reimbursable; and
- (c) whether the *firm* will receive commission from the *mortgage lender* or another third party and, if applicable, whether any commission will be offset against any fees charged and the arrangements for doing so; and

[Note: article 15(3) of the MCD]

- (d) for an *MCD regulated mortgage contract*, the amount of commissions or other inducements, or where the amount is not known at the time of disclosure, notification that the actual amount will be disclosed at a later stage in the *ESIS*.

[Note: article 15(1)(g) of the MCD]

- (2) The details in (1)(a) must be expressed, where possible, as a specific cash sum, but the following *rules* apply where this is not possible:

- (a) If the *firm* will charge a fee that is a percentage of another sum which is not yet known (such as, but not limited to, the amount to be borrowed), the *firm* must provide details of the percentage and a representative illustrative example which gives an amount as a cash sum.
- (b) If the *firm* will charge one of a range of possible cash fees, the *firm* must provide a description of the fee in terms which include the maximum and minimum possible fees as cash sums, and what factors will determine where in the range the fee will be.
- (c) If the *firm* will charge one of a range of fees that are a percentage of another sum which is not yet known (such as, but not limited to, the amount to be borrowed), the *firm* must provide details of the minimum and maximum percentages and a representative illustrative example which gives an amount as a cash sum, and set out what factors will determine where in the range the fee will be.
- (d) If the *firm* will charge an amount based on an hourly rate, but the number of hours to be spent on the *customer's* transaction is unknown, the *firm* must state the hourly rate in cash terms and set out what factors will determine how many hours it takes to provide the *firm's* services.
- (e) for an *MCD regulated mortgage contract*, if the *firm* will charge a fee calculated other than in line with 2(a) to (d), the *firm* must provide details of the method for calculating the fee.

[Note: article 15(1)(e) of the MCD]

Alternative finance options

4.4A.8A **R**

Where a *customer* is looking to increase the borrowing secured on a property which is the subject of an existing *regulated mortgage contract*, the *firm* must first inform the *customer*, either orally or in writing, that the following alternative finance options may be available and more appropriate for the *customer*:

- (1) a further advance from the existing lender, unless the *firm* knows that the existing lender will not make a further advance to the *customer*;
- (2) (a) a *second charge regulated mortgage contract*, where the *firm* would offer services in relation to a new *first charge regulated mortgage contract*;
(b) a new *first charge regulated mortgage contract*, where the *firm* would offer services in relation to a *second charge regulated mortgage contract*; or
- (3) *unsecured lending*.

4.4A.8AA **R**

Where a *customer* is looking to take out a *retirement interest-only mortgage*, the *firm* must inform the *customer*, either orally or in writing, that a *lifetime mortgage* may be available and more appropriate for the *customer*.

4.4A.8B **G**

Firms are not obliged to explore whether one of the alternative finance options mentioned in ■ MCOB 4.4A.8AR or ■ MCOB 4.4A.8AAR is more appropriate for the *customer* where that is not the service offered to the *customer*.

Method of providing initial disclosure in all cases

4.4A.9 **R**

The information required by ■ MCOB 4.4A.1 R, ■ MCOB 4.4A.2 R, ■ MCOB 4.4A.4R (1), ■ MCOB 4.4A.8 R and ■ MCOB 4.4A.8A R must be communicated clearly and prominently, and in doing so:

- (1) an *MCD mortgage adviser*, or any other *firm* that is an *MCD mortgage lender* or an *MCD mortgage arranger* that provides advisory services within the meaning of article 4(21) of the *MCD*, must provide the information in ■ MCOB 4.4A.1R(1) and (2) and ■ MCOB 4.4A.8R(1)(a) and (2)(e) in a *durable medium*;
(a) [deleted]
(b) [deleted]
- (1A) an *MCD mortgage arranger* (unless it is also acting as an *MCD mortgage lender* and carrying out a direct sale of the proposed *regulated mortgage contract*) must provide the information in ■ MCOB 4.4A.1R(1) and (2), ■ MCOB 4.4A.4R(1)(a) and (3), and ■ MCOB 4.4A.8R(1)(a), (c), (d) and (2) in a *durable medium*; and
- (2) in all other cases:
(a) if the *initial contact* includes spoken interaction, the information must be communicated orally; and

- (b) if the *initial contact* does not include spoken interaction, the messages must appear separately from other messages in the communication.

If the *initial contact* is made by electronic means, the *firm* must ensure that the *customer* cannot progress to the next stage of the sale unless the information has been communicated to the *customer*.

[Note: article 15(1) and article 22(2) of the *MCD*]

4.4A.10 **G**

- (1) In order to comply with ■ MCOB 4.4A.9R(1) and (1A), the required information must be provided in a *durable medium* for all sales.

(1A) In order to comply with ■ MCOB 4.4A.9R(2):

- (a) for an internet sale, a *firm* should display the required information on a screen which the *customer* must access as part of the sales process. It would not be sufficient for the information to be accessible only by giving the *customer* the option to click on a link or download a document. The messages could be displayed clearly on one of the initial pages which the *customer* accesses;
- (b) in a postal sale, a *firm* may comply by setting out the information in a clear covering letter;
- (c) where the *initial contact* is by email, SMS or instant messaging, the information could be displayed clearly and prominently early on in the body of the email, SMS or instant messaging; and
- (d) for face-to-face and telephone contact, a *firm* should comply by building the information into the initial oral discussion with the *customer*.

(2) [deleted]

(3) [deleted]

(4) [deleted]

4.4A.11 **G**

A *firm* may demonstrate compliance with ■ MCOB 4.4A.9R(2) by, for example, undertaking one or more of the following: building a requirement for oral communication of the relevant information into its training of staff as evidenced by its training and compliance manuals; inserting appropriate prompts into paper-based or automated sales systems; and having procedures in place to monitor compliance by staff with that *rule*. What is required in each case will depend on all the circumstances.

Timing of initial disclosure in all cases

4.4A.12 **R**

The information required by ■ MCOB 4.4A.1 R, ■ MCOB 4.4A.2 R, ■ MCOB 4.4A.4R(1) and (3), ■ MCOB 4.4A.8 R and ■ MCOB 4.4A.8A R must be provided:

- (1) in the case of information required by ■ MCOB 4.4A.1R (1) and ■ MCOB 4.4A.1R (2), ■ MCOB 4.4A.4R (1)(a) and ■ (3), and ■ MCOB 4.4A.8R (1)(a), ■ (c), ■ (d) and ■ (2), where the *firm* is an *MCD*

credit intermediary, in good time before carrying out any *MCD credit intermediation activity*;

(1A) in the case of information required by ■ MCOB 4.4A.1R(1) and (2) and ■ MCOB 4.4A.8R(1)(a) and (2)(e), where the *firm* is an *MCD mortgage adviser*, or any other *firm* that is an *MCD mortgage lender* or an *MCD mortgage arranger* that provides advisory services within the meaning of article 4(21) of the *MCD*, before the provision of such advisory services or, where applicable, the conclusion of a contract for the provision of such advisory services; and

(2) in all other cases, during the course of the *initial contact*.

[Note: article 15(1) and article 22(2) of the *MCD*]

4.4A.13

G

(1) In many cases, ■ MCOB 4.4A.12 R means that information will be given at the time of the first contact between the *firm* and the *customer*. However, there may be circumstances, for example in relation to a loan for a business purpose, where the possibility of the *customer* entering into, or varying the terms of, a *regulated mortgage contract* is only identified after preliminary discussions. The relevant disclosure is only required once this possibility is identified.

(2) ■ MCOB 4.4A.12 R does not require a *firm* to provide the information specified in that *rule* when a *customer* contacts a *firm* simply to arrange to receive services in relation to a *regulated mortgage contract* at a later time, such as when a *customer* books an appointment. In those cases, the initial disclosure should be made when the *firm* first makes contact with the *customer* with a view to actually carrying out the services. However, *firms* should note the additional disclosure requirements in ■ MCOB 4.5 (Additional disclosure for distance mortgage mediation contracts with retail customers), and the need to ensure that the required information is provided in good time (see ■ MCOB 4.5.3 G (1)).

4.4A.14

G

Principle 7 and MCOB 3A.2.1R also mean that, if initial disclosure has been given but any of the information in it (for example the basis on which the *firm* will be remunerated) subsequently changes, the *firm* should bring this clearly to the *customer's* attention.

Instances where initial disclosure need not be given

4.4A.15

R

The information requirements in ■ MCOB 4.4A.1 R, ■ MCOB 4.4A.2 R, ■ MCOB 4.4A.4R (1) and ■ MCOB 4.4A.8 R do not apply where:

- (1) the information has already been provided by the *firm* and the *firm* has good reason to believe that it is still accurate and appropriate for the *customer*; or
- (2) the information has already been provided by the *firm* which first made contact with the *customer* in respect of the particular *regulated mortgage contract*, and the *firm* subsequently making contact with the *customer* does not expect to alter or replace the product range or basis of remuneration described in that information.

4.4A.16 **G** A *mortgage lender* should provide the information in the provisions referred to in ■ MCOB 4.4A.15 R in a direct sale but need not do so where the sale is through a *mortgage intermediary*. If a number of different *firms* are involved in relation to the transaction, having regard to ■ MCOB 2.5.4 R (2), those *firms* should take reasonable steps to establish that the *customer* has been provided with the information as required by this section.

Additional disclosure where initial contact is by telephone

4.4A.17 **R** If the *initial contact* is by telephone, then the *firm* must also, before proceeding further, give the name of the *firm* and (if the call is initiated by or on behalf of the *firm*) the commercial purpose of the call.

Additional disclosure where the services are to be provided to a consumer under a distance contract

4.4A.18 **R** Where a *firm* provides services to a *consumer* by way of a *distance contract*, the *firm* must provide the *consumer* with the following information in a *durable medium* in good time before the *distance contract* has been agreed:

- (1) the information which is required by ■ MCOB 4.4A.1 R to ■ MCOB 4.4A.8A R;
- (2) whether or not the *firm* will be providing the *consumer* with advice;
- (3) the name and the main business of the *firm*, the geographical address at which it is established and any other geographical address relevant for the *consumer's* relations with the *firm*;
- (4) an appropriate statutory status disclosure statement (see ■ GEN 4), a statement that the *firm* is on the *Financial Services Register* and its FCA registration number;
- (5) the total price to be paid by the *consumer* to the *firm* for the financial service, including all related *fees*, charges and expenses, and all taxes paid through the *firm* or, when an exact price cannot be indicated, the basis for the calculation of the price enabling the *consumer* to verify it;
- (6) the arrangements for payment and for performance;
- (7) how to complain to the *firm*, whether complaints may subsequently be referred to the *Financial Ombudsman Service* and, if so, the methods for having access to it, together with equivalent information about any other applicable named complaints scheme;
- (8) whether compensation may be available from the *compensation scheme*, or any other named compensation scheme, if the *firm* is unable to meet its liabilities, and information about any other applicable named compensation scheme; and
- (9) any other contractual terms and conditions of the *distance contract* .

4.4A.19 **G** (1) ■ MCOB 4.4A.18 R contains the additional disclosure requirements for *firms* providing *mortgage mediation activities* to a *consumer* by way of a *distance contract*. ■ MCOB 4.5 and ■ MCOB 4.6 contain further

rules and guidance applicable where firms enter into a distance contract in respect of their home finance mediation activities independent of any contractual arrangement with a consumer relating to a particular home finance transaction or transactions.

- (2) There is *guidance on distance contracts and consumers* at ■ MCOB 1.3.5 G and ■ MCOB 1.3.6 G.

4.4A.20 G [deleted]

- 4.4A.20A G
- (1) An *MCD mortgage lender* or an *MCD credit intermediary* may comply with ■ MCOB 4.4A.18R (3) and ■ (5) to ■ MCOB 4.4A.18R (9) by providing an *ESIS* to the *consumer* prior to the conclusion of the *MCD regulated mortgage contract*.
- (2) Provided that the provisions of ■ MCOB 4.4A on the methods and timing of disclosure are complied with, an *MCD mortgage lender* or an *MCD credit intermediary* may comply with ■ MCOB 4.4A.18R (1), ■ (2) and ■ MCOB 4.4A.18R (4) by providing the necessary information in a separate document, which may be annexed to the *ESIS* (■ MCOB 5A.6.1 R).

Uncertainty whether a mortgage is regulated

- 4.4A.21 R
- (1) If at the point that initial disclosure must be made in accordance with ■ MCOB 4.4A.1 R, ■ MCOB 4.4A.2 R, ■ MCOB 4.4A.4 R, ■ MCOB 4.4A.8 R and ■ MCOB 4.4A.8A R a *firm* is uncertain whether the contract will be a *regulated mortgage contract*, the *firm* must:
- (a) make the initial disclosure; or
- (b) seek to obtain from the *customer* information that will enable the *firm* to ascertain whether the contract will be a *regulated mortgage contract*.
- (2) Where (1)(b) applies, the initial disclosure must be made unless, on the basis of the information provided by the *customer*, the *firm* has reasonable evidence that the contract is not a *regulated mortgage contract*.

Appointed representatives

- 4.4A.22 R A *firm* may restrict the *home finance transactions* it authorises a particular *appointed representative* to sell. If it does so, the *firm* must ensure the *appointed representative* reflects this limited range in any disclosure given to the *customer* under ■ MCOB 4.4A.

Record keeping

- 4.4A.23 G *Firms* are reminded of the general record-keeping requirements in ■ SYSC 9. A *firm* should keep appropriate records of the disclosures required by this section.

4.5 Additional disclosure for distance mortgage mediation contracts, distance home purchase mediation contracts and distance regulated sale and rent back mediation contracts with retail customers

4.5.1

G

- (1) There are certain additional disclosure requirements laid down by the rules which implemented the *Distance Marketing Directive* that will have to be provided by a *mortgage intermediary*, a *home purchase intermediary* and a *SRB intermediary* to a consumer prior to the conclusion of a *distance mortgage mediation contract*, a *distance home purchase mediation contract* or a *distance regulated sale and rent back mediation contract*. The purpose of this section, ■ MCOB 4.5, is to set out those additional requirements. ■ MCOB 4.6 sets out the cancellation rights that apply in relation to such contracts.
- (2) The FCA expects the requirements in ■ MCOB 4.5 and ■ MCOB 4.6 to be relevant only in a small minority of cases. Mediation at a distance (see ■ MCOB 1.3.5 G and ■ MCOB 1.3.6 G) is unlikely in the home finance market. ■ MCOB 4.5 and ■ MCOB 4.6 will only be relevant if a *mortgage intermediary*, a *home purchase intermediary* or a *SRB intermediary* enters into a *distance contract* in respect of its *mortgage mediation activities*, *home purchase mediation activities* or *regulated sale and rent back mediation activities* quite independent of any contractual arrangement with a consumer relating to a particular *regulated mortgage contract*, *home purchase plan* or *regulated sale and rent back agreement*. An example of a *distance mortgage mediation contract* would be a *distance contract* under which a *mortgage intermediary* agreed to review and provide advice on a consumer's mortgage needs from time to time.

4.5.2

R

If the *initial contact* is with a consumer with a view to concluding a *distance mortgage mediation contract*, a *distance home purchase mediation contract* or a *distance regulated sale and rent back mediation contract*, a firm must:

- (1) in addition to initial disclosure information and any other required information, provide the consumer with the information in ■ MCOB 4 Annex 3 in a *durable medium* in good time before the conclusion of the *distance mortgage mediation contract*, *distance home purchase mediation contract* or *distance regulated sale and rent back mediation contract* with that customer unless an exemption in (2), (3), (4) or (5) applies.

- (2) Exemption: telephone sales
 - (a) This exemption applies if the service is being provided on the telephone and the *customer* wishes to enter into a contract with the *firm*. Provided the *customer* gives his explicit consent to receiving only limited information, the *firm* may proceed on the basis of at least the following information:
 - (i) the name of the person in contact with the *customer* and his link with the *firm*;
 - (ii) the total price to be paid by the *customer* to the *firm* for the services, including all related *fees*, charges and expenses, and all taxes paid through the *firm* or, where an exact price cannot be indicated, the basis for the calculation of the price, enabling the *customer* to verify it;
 - (iii) notice of the possibility that other taxes or costs may exist that are not paid through the *firm* or imposed by it;
 - (iv) the information about cancellation rights set out in ■ MCOB 4 Annex 3(5); and
 - (v) that other information is available on request, and the nature of that information.
 - (aa) If the *customer* does not give his explicit consent to receiving limited information, and the parties wish to proceed by telephone, the *firm* must, prior to the conclusion of the contract, provide orally to the *customer* all of the information required by (1).
 - (b) Where (a) or (aa) applies, the *firm* must send the *consumer* without delay and, at the latest immediately after a contract is concluded, the information required by (1), in a *durable medium*.
- (3) Exemption: certain other means of distance communication. This exemption applies if the contract is concluded at the *consumer's* request using a means of distance communication (other than telephone) which does not enable provision of the information referred to in ■ MCOB 4 Annex 3 in a *durable medium* before the conclusion of the contract. In that case, the *firm* must provide the *consumer* with the information in a *durable medium* immediately after its conclusion.
- (4) Exemption: successive operations or separate operations under an initial service agreement. This exemption applies if the *firm* has an initial service agreement with the *consumer* and the contract is in relation to a successive operation or a separate operation of the same nature under that agreement.
- (5) Exemption: other successive or separate operations This exemption applies if:
 - (a) the *firm* has no initial service agreement with the *consumer*; and
 - (b) the *firm* has performed an operation with the *consumer* within the last year; and
 - (c) the contract is in relation to a successive operation or separate operation of the same nature.

4.5.3	G	<p>(1) The information in ■ MCOB 4 Annex 3 will be provided in 'good time' for the purposes of ■ MCOB 4.5.2 R (1), if provided in sufficient time to enable the <i>customer</i> to consider properly the services on offer.</p> <p>(2) An example of the circumstances in which ■ MCOB 4.5.2 R (4) or (5) may apply is given in ■ MCOB 4.4.4 G. If the initial disclosure document and accompanying information (including that in ■ MCOB 4 Annex 3) was previously provided to a <i>customer</i> and continues to be appropriate, there is no need to provide the information again. If additional information is required, this may be provided by a supplementary document. However, if a service of a different nature is proposed, the <i>firm</i> is expected to provide fresh initial disclosure documentation and, in respect of <i>distance mortgage mediation contracts, distance home purchase mediation contracts</i> and <i>distance regulated sale and rent back mediation contracts</i> with a <i>consumer</i>, this will need to be accompanied by the information in ■ MCOB 4 Annex 3.</p>
4.5.4	R	[deleted]
4.5.5	R	[deleted]

4.6 Cancellation of distance mortgage mediation contracts, distance home purchase mediation contracts and distance regulated sale and rent back mediation contracts

4.6.1 G A consumer has no right to cancel a home finance transaction concluded with a firm but may have a right to cancel a distance contract concluded with a mortgage intermediary, a home purchase intermediary or a SRB intermediary for the provision of his services. Whether a mortgage intermediary, a home purchase intermediary or a SRB intermediary concludes a distance mortgage mediation contract, a distance home purchase mediation contract or a distance regulated sale and rent back mediation contract with a consumer will depend on the circumstances. For example, an intermediary may not, in advising on or arranging a regulated mortgage contract, home purchase plan or regulated sale and rent back agreement, act contractually on behalf of, or for, the customer. In such circumstances, no distance mediation contract will arise for the firm's services, and therefore no right to cancel. If there is a contract between the customer and the firm, however, and therefore there is a right to cancel, the firm is required by MCOB 4.5.2 R(1) to provide the information in MCOB 4 Annex 3(5).

4.6.2 G The information provided in accordance with MCOB 4 Annex 3(5) should be sufficiently clear, prominent and informative to enable the consumer to understand the right to cancel.

4.6.3 G Where the notice of the right to cancel forms part of another document, or is one of a number of documents sent to the consumer at the same time, a firm should ensure that the presence of the notice of the right to cancel is drawn to the consumer's attention.

Cancellation period

- 4.6.4 R
- (1) A consumer has a right to cancel a distance mortgage mediation contract, a distance home purchase mediation contract or a distance regulated sale and rent back mediation contract in accordance with this section.
 - (2) The right to cancel must be exercised within 14 days beginning on the later of:
 - (a) the day of the conclusion of the contract; or

- (b) the day on which the *consumer* receives the contractual terms and conditions and other information required by ■ MCOB 4.4 and ■ MCOB 4.5.

Exercising the right to cancel

4.6.5 **R** A *consumer* who has a right to cancel a *distance mortgage mediation contract*, a *distance home purchase mediation contract* or a *distance regulated sale and rent back mediation contract* may, without giving any reason, cancel the contract by serving notice on the *firm*, before the expiry of the cancellation period in ■ MCOB 4.6.4 R either:

- (1) by serving on, or otherwise sending by post, notice to the *firm's* last known address, addressed to the *firm*, its *appointed representative* or on any agent of the *firm* with authority to accept notice on the *firm's* behalf; or
- (2) in accordance with any other practical instructions for exercising that right provided to the *consumer* in accordance with ■ MCOB 4 Annex 3(5).

4.6.6 **R** Where the notice of cancellation is in a *durable medium* and is served in accordance with ■ MCOB 4.6.5 R, it must be treated as being served on the *firm* on the date it is despatched by the *consumer*.

4.6.7 **G** In the event of any dispute, unless there is clear written evidence to the contrary, the *firm* should treat the date cited by the *consumer* as being the date when notice was given, posted or otherwise sent.

Effects of cancellation

4.6.8 **R** By exercising a right to cancel under ■ MCOB 4.6.4 R the *consumer* withdraws from the contract and the entire contract is terminated.

4.6.9 **G** Regulation 11 (Automatic cancellation of an attached distance contract) of the *Distance Marketing Regulations*, has the effect that when notice of cancellation is given in relation to a contract, that notice also operates to cancel any attached contract, which is also a distance financial services contract. An example of such an attached contract might be a distance non-investment insurance contract.

4.6.10 **R** When a *consumer* exercises a right to cancel under ■ MCOB 4.6.4 R:

- (1) the *firm* must:
 - (a) pay to the *consumer* without delay, and no later than 30 days after the date on which the *firm* received notice of cancellation from him, any sums which he has paid to or for the benefit of the *firm* in connection with the contract (including sums paid by the *consumer* to agents of the *firm*) except for the amount referred to in (b);
 - (b) subject to (c), the *firm* is permitted to require the *consumer* to pay for the services it has actually provided in connection with

the contract; the amount payable, however, must be in accordance with the sums which the *consumer* agreed to pay and must not:

- (i) exceed an amount which is in proportion to the extent of the service already provided to the *consumer* by the *firm*; and
- (ii) be such that it could be construed as a penalty;
- (c) sub-paragraph (b) applies only if:
 - (i) where performance of the contract has commenced before expiry of the cancellation period, this was requested by the *consumer*; and
 - (ii) the *firm* can demonstrate that the *consumer* was provided with details of the amount which he may be required to pay if exercising his right to cancel in accordance with ■ MCOB 4 Annex 3(5).

(2) The *firm* is entitled to receive without delay, and no later than 30 days after the date on which the *consumer* posted or otherwise sent notice of cancellation to the *firm* any property that became the *consumer's* under the contract and any sums payable to the *firm* under (1)(b).

Record keeping

4.6.11

R

Where notice of cancellation has been served on a *firm* (or its *appointed representative* or agent), the *firm* must make and retain a record (which includes a copy of any receipt of notice issued to the *consumer* and the *consumer's* original notice instructions) for three years from the date when the *firm* first became aware that notice of cancellation had been served.

		<div>4.6A</div> <div>Rolling-up of fees or charges into loan</div>
4.6A.1	R	A mortgage lender may not offer a regulated mortgage contract to a customer on the basis that fees or charges of any kind (receivable either by the mortgage lender or another party) are automatically added to the sum advanced.
4.6A.2	R	A firm must not undertake any action that commits a customer to an application for a regulated mortgage contract where a fee or charge of any kind (receivable either by the firm or another party) is to be added to the sum advanced under the regulated mortgage contract, unless the customer has made a positive choice to add the fee or charge to the sum advanced.



4.7A

Advised sales

- 4.7A.1
- G
- (1) ■ MCOB 4.7A sets out standards to be observed by *firms* when *advising* a particular *customer* on *regulated mortgage contracts*.

(2) The rules at ■ MCOB 4.8A require *firms* which are selling *regulated mortgage contracts* to, or entering into variations of existing *regulated mortgage contracts* with, certain types of vulnerable *customer*, to provide advice to them.

(3) The *rules* at ■ MCOB 4.8A also provide that advice must be given wherever the sales process involves spoken or other interactive dialogue (except for *high net worth mortgage customers*, *professional customers* and loans solely for a business purpose), unless that spoken or other interactive dialogue is of a sort described by ■ MCOB 4.8A.7AR. They do not prohibit the giving of pre-contract or preliminary information which does not amount to advice to the particular *customer*, but mean that advice must be given before a *firm* enters into or *arranges* a *regulated mortgage contract*, or variation of such contract, unless (where the dialogue is not of a sort described by ■ MCOB 4.8A.7AR) the requirements of the various exceptions in ■ MCOB 4.8A are satisfied. *Firms* may wish to refer to PERG (particularly ■ PERG 4.6) for guidance on the regulatory perimeter in relation to *advising* on *home finance transactions*.

(4) The *rules* at ■ MCOB 4.8A provide for an exception which permits certain *execution-only sales* which do not involve additional borrowing.

Suitability

- 4.7A.2
- R
- If a *firm* gives advice to a particular *customer* to enter into a *regulated mortgage contract*, or to vary an existing *regulated mortgage contract*, it must take reasonable steps to ensure that the *regulated mortgage contract* is, or after the variation will be, suitable for that *customer*.
- 4.7A.3
- R
- In ■ MCOB 4.7A, a reference to advice to enter into a *regulated mortgage contract* is to be read as including advice to vary an existing *regulated mortgage contract*.
- 4.7A.4
- G
- (1) A *firm* should take reasonable steps to obtain from a *customer* all information likely to be relevant for the purposes of ■ MCOB 4.7A.

(2) For the purposes of ■ MCOB 4.7A.2 R, if for any reason a *customer* rejects (in whole or in part) advice given by a *firm*, the *firm* is not precluded from advising him to enter into a different *regulated mortgage contract* (in accordance with the requirements of

■ MCOB 4.7A) provided the *firm* has taken reasonable steps to ensure that that different contract is suitable for the *customer*.

4.7A.4A **G** *Firms* are only obliged to assess the suitability of a *regulated mortgage contract* or a *shared equity credit agreement* where this forms part of the transaction between the *consumer* and the *firm*.

4.7A.5 **R** For the purposes of ■ MCOB 4.7A.2 R:

- (1) a *regulated mortgage contract* will not be suitable for a *customer* unless the *regulated mortgage contract* is appropriate to the needs and circumstances of the *customer*;
- (2) a *firm* must base its determination of whether a *regulated mortgage contract* is appropriate to a *customer's* needs and circumstances on the facts disclosed by the *customer* and other relevant facts about the *customer* of which the *firm* is or should reasonably be aware;
- (3) no advice must be given to a *customer* to enter into a *regulated mortgage contract* if there is no *regulated mortgage contract* which is suitable from the product range offered by the *firm*; and
- (4) if a *mortgage lender* is dealing with an existing *customer* with a *payment shortfall* and has concluded that there is no suitable replacement *regulated mortgage contract*, the *firm* must nonetheless have regard to ■ MCOB 13.3.

4.7A.6 **R** When a *firm* assesses whether the *regulated mortgage contract* is appropriate to the needs and circumstances of the *customer* for the purposes of ■ MCOB 4.7A.5R (1), the factors it must consider include the following, insofar as relevant:

- (1) whether the *customer's* requirements appear to be within the *mortgage lender's* known eligibility criteria for the *regulated mortgage contract*;
- (2) whether it is appropriate for the *customer* to have an *interest-only mortgage*, a *repayment mortgage*, or a combination of the two;
- (3) whether it is appropriate for the *customer* to take out a *regulated mortgage contract* for a particular term;
- (4) whether it is appropriate for the *customer* to have stability in the amount of required payments, especially having regard to the impact on the *customer* of significant interest rate changes in the future;
- (5) whether it is appropriate for the *customer* to have their payments minimised at the outset;
- (6) whether it is appropriate for the *customer* to make early repayments;
- (7) whether it is appropriate for the *customer* to have any other features of a *regulated mortgage contract*;

- (8) whether the *regulated mortgage contract* is appropriate, based on the information provided by the *customer* as to his credit history; and
- (9) whether it is appropriate for the *customer* to pay any fees or charges in relation to the *regulated mortgage contract* up front, rather than adding them to the sum advanced (see also ■ MCOB 4.6A.2 R).

4.7A.7 G *Firms* are reminded that the list in ■ MCOB 4.7A.6 R is not exhaustive. For certain *customers* there may be additional considerations to explore beyond those described in that rule; for example, in the case of a business loan or a *regulated mortgage contract* for a *high net worth mortgage customer*.

4.7A.8 G Examples of criteria in ■ MCOB 4.7A.6R (1) are: the expected affordability criteria of the *mortgage lender*; and whether the *mortgage lender* will lend in respect of properties of a non-standard construction.

Interest-only

4.7A.9 R In relation to ■ MCOB 4.7A.6R (2), where a *firm* has identified an *interest-only mortgage* as appropriate for a *customer*, the *firm* must ensure that the *customer* is aware that he will have to demonstrate to the *mortgage lender* that he will have in place a clearly understood and credible *repayment strategy*, in order for the *mortgage lender* to be able to satisfy ■ MCOB 11.6.41R (1).

4.7A.10 G ■ MCOB 4.7A.9 R does not require a *firm* to *advise* the *customer* on a credible *repayment strategy* or assess the adequacy of a *customer's* existing *repayment strategy*.

Retirement interest-only mortgages

- 4.7A.10A** R
- (1) In considering whether a *retirement interest-only mortgage* that will be used to release capital is appropriate to the needs and circumstances of the *customer* for the purposes of ■ MCOB 4.7A.2R, a *firm* must consider, in addition to the factors set out in ■ MCOB 4.7A.6R, whether the benefits to the *customer* outweigh any adverse effect on:
 - (a) the *customer's* entitlement (if any) to means-tested benefits; and
 - (b) the *customer's* tax position.
 - (2) In considering the factors set out in ■ MCOB 4.7A.10AR(1), where a *firm* has insufficient knowledge of the *customer's* means-tested benefits or tax allowances to reach a conclusion, the *firm* must refer the *customer* to an appropriate source or sources such as the Pension Service, HM Revenue and Customs or a Citizens Advice Bureau (or other similar agency) to establish the required information.
 - (3) If a *customer* declines to seek further information on means-tested benefits, tax allowances or the scope for local authority (or other) grants, a *firm* can advise the *customer* (in accordance with the remaining requirements of this chapter) to enter into a *retirement interest-only mortgage* where there is a *retirement interest-only mortgage* that is appropriate to the needs and circumstances of the

customer; but must confirm to the *customer*, in a *durable medium*, the basis on which the advice has been given.

Bridging loans

4.7A.11 **R** When a *firm* assesses whether a *bridging loan* is appropriate to the needs and circumstances of the *customer* for the purposes of **■ MCOB 4.7A.5R (1)**, the factors it must consider include, in addition to the factors listed at **■ MCOB 4.7A.6 R**:

- (1) whether it is appropriate for the *customer* to make regular payments; and
- (2) whether it is appropriate for the *customer* to access finance quickly.

4.7A.12 **R** Where a *firm* has identified a *bridging loan* as appropriate for a *customer*, the *firm* must ensure that the *customer* is aware that he will have to demonstrate to the *mortgage lender* that he has a clearly understood and credible *repayment strategy* in place.

4.7A.13 **R** Where a *firm* is considering giving advice to a *customer* to enter into a *bridging loan*, the reasonable steps in **■ MCOB 4.7A.2 R** include considering why it is not appropriate for the *customer* to take out a *regulated mortgage contract* which is not a *bridging loan*.

4.7A.14 **E** If a *firm* advises a *customer* to enter into a *regulated mortgage contract* with a term of a particular length so that **■ MCOB 4.7A.11 R** to **■ MCOB 4.7A.13 R** do not apply because the *regulated mortgage contract* does not fall within the definition of a *bridging loan*, that advice may be relied on as tending to show contravention of **■ MCOB 2.5A.1 R** (The customer's best interests).

Shared equity

4.7A.14A **R** When a *firm* assesses whether a *shared equity credit agreement* is appropriate to the needs and circumstances of the *customer* for the purposes of **■ MCOB 4.7A.5R (1)** it must consider, in addition to the factors listed in **■ MCOB 4.7A.6 R**, whether it is appropriate for the *customer* to:

- (1) take out the *shared equity credit agreement* for a particular term, taking into account the *customer's* intentions about the repayment of that *shared equity credit agreement* and the term of the *customer's* associated *first charge regulated mortgage contract*;
- (2) have flexibility over the payment of interest;
- (3) have flexibility over the repayment of capital; and
- (4) purchase a property by using his own resources, rather than by borrowing under the *shared equity credit agreement*.

Debt consolidation

4.7A.15 **R** When a *firm* advises a *customer* in relation to entering into a *regulated mortgage contract* where the main purpose for doing so is the consolidation of existing debts by the *customer*, in addition to the factors at **■ MCOB 4.7A.6 R**, it must also take account of the following, where relevant, in assessing whether the *regulated mortgage contract* is suitable for the *customer*:

- (1) the costs associated with increasing the period over which a debt is to be repaid;
- (2) whether it is appropriate for the *customer* to secure a previously unsecured loan; and
- (3) where the *customer* is known to have payment difficulties, whether it would be appropriate for the *customer* to negotiate an arrangement with his creditors rather than to take out a *regulated mortgage contract*.

4.7A.16 **E** An attempt by the *firm* to misdescribe the *customer's* purpose or to encourage the *customer* to tailor the amount he wishes to borrow so that **■ MCOB 4.7A.15 R** does not apply may be relied on as tending to show contravention of **■ MCOB 2.5A.1 R** (The customer's best interests).

Further advances

4.7A.17 **R**

4.7A.18 **G**

Other considerations when advising

4.7A.19 **R** When *advising* a *customer* on the suitability of a *regulated mortgage contract*, a *firm* must explain to the *customer* that the assessment of whether the *regulated mortgage contract* is appropriate to his needs and circumstances is based only on the *customer's* current circumstances and any reasonably foreseeable changes to those.

4.7A.20 **G** Different considerations apply when giving advice to a *customer* with a *payment shortfall*. For example, the circumstances of the *customer* may mean that, viewed as a new transaction, a *customer* should not be advised to enter into a *regulated mortgage contract*. In those cases, a *firm* may still be able to give advice to that *customer* where the *regulated mortgage contract* concerned is, in the circumstances, a more suitable one than the *customer's* existing *regulated mortgage contract*.

4.7A.21 **G** In complying with **■ MCOB 4.7A.5R (1)** a *firm* is not required to consider whether it would be preferable for the *customer* to:

- (1) purchase a property by using his own resources, rather than by borrowing under a *regulated mortgage contract* (save for where the

customer is seeking to enter into a *shared equity credit agreement* (see ■ MCOB 4.7A.14AR (4); or

- (2) rent a property, rather than purchase one; or
- (3) delay entering into a *regulated mortgage contract* until a later date (on the grounds that property prices would have fallen in the intervening period, or that the interest rate in relation to the *regulated mortgage contract* may be lower, or both).

4.7A.22 G ■ MCOB 4.7A.5R (3) means that where the advice is not provided on an unlimited range of products from across the relevant market, the assessment of suitability should not be limited to the types of *regulated mortgage contracts* which the *firm* offers. A *firm* cannot recommend the 'least worst' *regulated mortgage contract* where the *firm* does not have access to products appropriate to the *customer's* needs and circumstances. This means, for example, that a *firm* dealing solely in the credit-impaired market should not recommend one of these *regulated mortgage contracts* if approached for advice by a *customer* who is not a *credit-impaired customer*.

4.7A.23 G A *firm* may generally rely on any information provided by the *customer* for the purposes of ■ MCOB 4.7A.5R (1) unless, taking a common sense view of this information, it has reason to doubt it.

Cost of the mortgage

4.7A.23A R

- (1) This *rule* applies if the *firm's* product range includes more than one *regulated mortgage contract* that is appropriate to the needs and circumstances of the *customer* (see ■ MCOB 4.7A.5R and ■ 4.7A.6R).
- (2) If:
 - (a) the *firm* advises the *customer* to enter into a particular *regulated mortgage contract*; and
 - (b) that *regulated mortgage contract* is not the cheapest of those contracts in the *firm's* product range which are appropriate to the needs and circumstances of the *customer*;

the *firm* must explain to the *customer* why it is advising the *customer* to enter into that *regulated mortgage contract* rather than any other cheaper *regulated mortgage contract* in the *firm's* product range which is appropriate to the needs and circumstances of the *customer*.
- (3) For the purposes of this *rule*:
 - (a) one *regulated mortgage contract* ("contract A") is cheaper than another ("contract B") if the total amount payable under contract A in respect of the relevant period is less than the total amount payable under contract B in respect of the relevant period;
 - (b) the "total amount payable" means:
 - (i) the aggregated monthly payments; and
 - (ii) includes any product fee or arrangement fee if the *customer* proposes to pay that fee directly rather than add it to the sum advanced under the contract (and such a fee must be

treated in the same way for contract A and contract B when comparing the two contracts);

- (c) the “relevant period” means:
 - (i) any discounted or introductory period under contract A; or
 - (ii) the term of contract A; and
- (d) monthly payments should be calculated on the assumption that there is no variation to the interest rate that would apply if the *regulated mortgage contract* were to be entered into immediately, unless the contract expressly varies the interest rate (in which case, the monthly payments should be calculated by reference to rates specified in the contract in relation to the relevant periods).

Rejected advice

- 4.7A.24** **R** If a *customer* has rejected the advice given by a *firm* and instead wishes to enter into a different *regulated mortgage contract* as an *execution-only sale*, the *firm* may enter into or *arrange* that contract as an *execution-only sale* provided the requirements in **■ MCOB 4.8A.14 R** are satisfied.

Record keeping

- 4.7A.25** **R**
- (1) A *firm* must make and retain a record:
 - (a) of the *customer* information, including that relating to the *customer's* needs and circumstances, that it has obtained for the purposes of **■ MCOB 4.7A**;
 - (b) that explains why the *firm* has concluded that any advice given to a *customer* complies with **■ MCOB 4.7A.2 R** and satisfies the suitability requirement in **■ MCOB 4.7A.5R (1)**;
 - (c) of the *customer's* positive choice in **■ MCOB 4.6A.2 R** (Rolling up of fees or charges into loan) where applicable; and
 - (d) of the explanation given under **■ MCOB 4.7A.23AR** where applicable.
 - (2) The records in (1) must be retained for a minimum of three years from the date on which the advice or explanation was given or, in the case of (1) (c), the making of the choice.

4.8A Execution-only sales

Scope and application of this section

- 4.8A.1** G This section sets out the conditions which must be satisfied for a *firm* to enter into or vary a *regulated mortgage contract* with a *customer*, or *arrange* such a transaction for a *customer*, without giving advice, or where the advice given by the *firm* has been rejected. As explained in ■ **MCOB 4.7A.1 G**, it does not prohibit the giving of pre-contract or preliminary information which does not amount to advice to the particular *customer*. If a *firm* intends (where permitted under this section) to operate a business model under which it will not give advice to particular *customers*, it may wish to refer to *PERG* (particularly ■ **PERG 4.6**) for guidance on the regulatory perimeter in relation to the *regulated activities* which constitute advising on home finance transactions.
- 4.8A.2** G Subject to certain limited exceptions, where the *rules* in ■ **MCOB 4.8A** apply to a *firm* they restrict *execution-only sales* (which term is defined to include variations of existing contracts) to cases where:
- (1) there is no spoken or other interactive dialogue between the *firm* and the *customer* during the sale; or
 - (2) if there is spoken or other interactive dialogue between the *firm* and the *customer* during the sale:
 - (a) the *customer* is a *high net worth mortgage customer*; or
 - (b) the *customer* is a *professional customer*; or
 - (c) the loan is solely for a business purpose;
 and in each case the *customer* has positively elected to proceed with an *execution-only sale* and (in the case of a *professional customer*) identified the product he wishes to purchase; or
 - (2A) if there is spoken or other interactive dialogue between the *firm* and the *customer* during the sale, the *firm's* contribution to the dialogue is limited to:
 - (c) factual information about a *regulated mortgage contract* (provided that it is not personalised to the *customer*), the process of applying for one, or the processing of an application; the making of arrangements related to such matters;
 - (b) the provision of an *European Standardised Information Sheet (ESIS)* or an *illustration*; or

- (c) an explanation of the information provided under ■ MCOB 4.8A.14R(4) (that the *firm* has not assessed the suitability of the *regulated mortgage contract*); or
- (3) the *customer* has rejected advice, identified the product he wishes to purchase and positively elected to proceed with an *execution-only sale*.
- In each case certain requirements must be satisfied.
- 4.8A.3** G Interactive dialogue includes SMS, mobile instant messaging, email and communication via social media sites; this list is not exhaustive. Where a sale is carried out entirely on the internet, a *firm* merely permitting the *customer* to input details about the matters specified in ■ MCOB 4.8A.14R (1), ■ (2) or ■ (3) in order to select from the *firm's* product range the *regulated mortgage contract* they wish to purchase, or the variation they wish to enter into, would not be engaging in interactive dialogue.
- The customer's best interests**
- 4.8A.4** G *Firms* are reminded that ■ MCOB 2.5A.1 R (The customer's best interests) applies in all cases, including in relation to *execution-only sales*.
- 4.8A.5** R A *firm* must not encourage a *customer* to opt out of receiving advice on *regulated mortgage contracts* from, or reject advice given by, it or any *associate*.
- 4.8A.6** G *Firms* are not prohibited from entering into or *arranging execution-only sales* for *regulated mortgage contracts* for *customers* to whom they have provided product information (where otherwise permitted under this section), but ■ MCOB 2.5A.1 R and ■ MCOB 4.8A.5 R (The customer's best interests) mean the information they provide should not steer the *customer* to elect to enter into an *execution-only sale*.
- 4.8A.6A** G *Firms* will not be treated as having breached ■ MCOB 2.5A.1R or ■ MCOB 4.8A.5R merely because they market *execution-only sales* or apply different pricing to *execution-only sales* from that applied to advised sales, provided that they act in a manner consistent with their obligations under the *regulatory system*, including the requirements of this section.
- Cases where execution-only sales are not permitted**
- 4.8A.7** R A *firm* must not enter into or *arrange an execution-only sale* for a *regulated mortgage contract* if:
- (1) the *customer* is intending to use it to exercise a statutory "right to buy" the *customer's* home; or
- (2) the main purpose of the *customer's* entering into it is to raise funds for debt consolidation; or

- (3) there is spoken or other interactive dialogue between the *firm* and the *customer* at any point during the sale, except as described by ■ MCOB 4.8A.7AR; or
- (4) the *regulated mortgage contract* is a *shared equity credit agreement*.

4.8A.7A **R**

The *firm* may carry on a spoken or other interactive dialogue with the *customer*, provided that the content of the *firm's* contribution to the dialogue is limited to:

- (1) the provision of factual information to the *customer* about:
 - (a) a *regulated mortgage contract*, provided that the information about the contract is not personalised to the *customer*; or
 - (b) the process of applying for a *regulated mortgage contract*; or
 - (c) the processing of an application for a *regulated mortgage contract*; or
- (2) the making of practical arrangements related to such matters; or
- (3) the provision of an *illustration* or an *European Standardised Information Sheet (ESIS)*; or
- (4) an explanation of the information which the *firm* gives to the *customer* in accordance with ■ MCOB 4.8A.14R(4).

4.8A.7B **G**

- (1) If the interaction with the *customer* constitutes or includes advice or a recommendation (see ■ PERG 4.6), the sale cannot be an *execution-only sale* and the *firm* would need to comply with ■ MCOB 4.7A (Advised sales).
- (2) ■ MCOB 4.8A.7AR allows some interaction with a *customer* without the dialogue triggering the need for the *firm* to give advice in compliance with ■ MCOB 4.7A.
- (3) ■ MCOB 4.8A.7AR would, for example, permit a *firm* to provide generic information to a *customer* in response to a telephone query about the *firm's* products, fees and charges, about processes and timescales, about how to complete an application, or about the progress of the application. But information about a *regulated mortgage contract* which is personalised to the *customer* is not permitted, for example giving an estimate of the monthly payment due in respect of the amount that the *customer* wishes to borrow under the product they wish to take: giving such information would mean the *firm* would need to comply with ■ MCOB 4.7A. The *firm* may, however, issue an *illustration* or an *European Standardised Information Sheet (ESIS)* which contains information personalised to the *customer* without that action triggering the need for advice. The *firm* may also explain to the *customer* the information which the *firm* provides in accordance with ■ MCOB 4.8A.14R(4) (in relation to the *firm* not assessing the suitability of the *regulated mortgage contract*).
- (4) Examples of spoken or other interactive dialogue which are or are not permitted under ■ MCOB 4.8A.7AR include:

Providing the *customer* This would be permitted, if the provision

with copies of product literature, or weblinks to such literature	is in response to a request from a <i>customer</i> who has identified the main features of the mortgage they want and is accompanied by an indication that the products described in the literature all have those features (see PERG 4.6.15G(6)).
Listing the current fixed and variable rates on offer	This would be permitted.
Explaining the advantages and disadvantages of fixed rate and variable rate mortgages	<p>This would be permitted if done in purely generic terms, provided that the explanation does not itself constitute advice (see PERG 4.6.15G(2) and 4.6.16G) which would prevent the sale from proceeding as an <i>execution-only sale</i>.</p> <p>Where the explanation is couched in the terms of the <i>customer's</i> circumstances, it is personalised to the <i>customer</i>. As such, the interaction is not of a sort permitted by MCOB 4.8A.7AR, the sale cannot be an <i>execution-only sale</i> and the <i>firm</i> would need to comply with MCOB 4.7A.</p>
Giving the <i>customer</i> an indication of the monthly cost of a <i>regulated mortgage contract</i>	<p>This would be permitted, if it were in the form of a generic example, including by way of comparison of two mortgages.</p> <p>But this would not be permitted if it were an indication personalised to the <i>customer</i>, for example where the indication is of the monthly cost in respect of the amount which the <i>customer</i> wishes to borrow over the term for which the <i>customer</i> wishes to borrow it; such an interaction will trigger the need for advice and the <i>firm</i> would need to comply with MCOB 4.7A.</p>
Talking the <i>customer</i> through a decision tree	This would not be permitted. Although the question of whether decision trees constitute advice is discussed at PERG 4.6.15G , the act of talking the <i>customer</i> through such a decision-making process is likely to involve doing more than merely providing the <i>customer</i> with factual information; as that interaction is not of a sort permitted by MCOB 4.8A.7AR , the sale cannot be an <i>execution-only sale</i> and the <i>firm</i> would need to comply with MCOB 4.7A .
Responding to a query about how to fill out an application form (for example: telling a <i>customer</i> what supporting documents are acceptable as proof of address or identity and how to supply them, or how to calculate and report their income or expenditure)	This would be permitted, as it is information about the process of applying for a mortgage and the making of arrangements (how to supply supporting evidence) related to that process.

Discussing the use of panel solicitors

This would be permitted, provided such discussions are limited to factual information about, for example, whether or not a particular firm of solicitors is on the lender's panel and what legal fees are or are not included in the mortgage offer.

Taking credit card details by phone to cover payment of a required valuation

This would be permitted, as it is about the making of practical arrangements related to the processing of an application for a *regulated mortgage contract*.

Rescheduling a property valuation

This would be permitted because the interaction is about the making of arrangements related to the processing of the application.

Calling the *customer* to tell them that an application for a *regulated mortgage contract* needs to be submitted in the next two days if a new (higher) interest rate is not to apply

This would be permitted, if it were in the form of a generic communication about the *firm* planning to change its product offering or interest rates in the near future, and indicating the deadline for applying for the current product.

However, a communication about a particular *regulated mortgage contract* that the *firm* knows or reasonably suspects the *customer* may wish to apply for, and the product it will be replaced with or the rate that will apply if an application for such a product is received after a particular date, would not be permitted as this is information which is personalised to the *customer*.

4.8A.8

E

An attempt by the *firm* either to:

- (1) misdescribe the *customer's* purpose or characteristics; or
- (2) encourage the *customer* to tailor the amount he wishes to borrow; so that ■ MCOB 4.8A.7 R does not apply may be relied on as tending to show contravention of ■ MCOB 2.5A.1 R (The customer's best interests).

Exceptions: high net worth mortgage customers, professional customers and loans solely for a business purpose

4.8A.9

R

- (1) ■ MCOB 4.8A.7 R does not apply where the *customer* is a *high net worth mortgage customer*.
- (2) ■ MCOB 4.8A.7R (3) does not apply where the *customer* is a *professional customer* or the loan is solely for a business purpose.

Exception: rate switches and other variations

4.8A.10

R

- (1) ■ MCOB 4.8A.7 R does not apply in the case of a variation of a *regulated mortgage contract*, provided that:
 - (a) the variation would not involve the *customer* taking on additional borrowing beyond the amount currently outstanding under the existing *regulated mortgage contract*, other than to

finance any product fee or arrangement fee for the proposed new or varied contract;

- (b) where the variation will (in whole or part) change from one interest rate to another, the *firm* has presented to the *customer*, using only a non-interactive channel, all products offered by it for which the *customer* is eligible, whether or not the *customer* then selects from those products using an interactive channel; and

- (2) The reference to a variation in (1) (and in all other provisions which cross-refer to this *rule*) must be read as including any new *regulated mortgage contract* which would replace an existing *regulated mortgage contract* between the *customer* (or, where there are joint borrowers, at least one of them) and the *firm* (either as the original *mortgage lender* or as the transferee of the existing contract).

- (3) Where a *customer* informs their existing *mortgage lender* that they are considering redeeming their *regulated mortgage contract* by refinancing it with a *regulated mortgage contract* through another *mortgage lender*, ■ MCOB 4.8A.7R(3) does not apply to the existing *mortgage lender* provided that:

- (a) the *customer* specifies to the existing *mortgage lender* at least the following information in relation to the replacement *regulated mortgage contract*:
 - (i) the rate of interest;
 - (ii) the interest rate type (that is, whether fixed, variable or some other type);
 - (iii) the length of the term required by the *customer*;
 - (iv) the sum the *customer* wishes to borrow; and
 - (v) whether the customer wants an *interest-only mortgage* or a *repayment mortgage*; and
- (b) the existing *mortgage lender* presents to the *customer*, in a *durable medium*, those of its products for which the *customer* is eligible and which match the features the *customer* specifies.

4.8A.11 G

- (1) The variation in ■ MCOB 4.8A.10 R might involve: a transfer to a different property ("porting"); the addition or removal of a borrower for joint mortgages; an extension of the term; a change in payment method; or consent to let the property. This list is not exhaustive.
- (2) Examples of rate changes in ■ MCOB 4.8A.10R (1)(b) are: a transfer from a variable rate to a fixed rate; and a transfer from one fixed rate to another fixed rate.
- (3) [deleted]
- (4) Where a *firm's* range of *regulated mortgage contracts* has changed, for example where a new *regulated mortgage contract* has been added since the *firm* presented its list of *regulated mortgage contracts* to the *customer*, the sale may proceed as an *execution-only sale* only if the *firm* re-presents the new list. For example, if the *firm* now offers a 3 year fixed deal where previously they only offered 2 year or 5 year fixed deals, the *firm* would need to re-present the new list. But where the *firm* no longer offers a particular *regulated*

mortgage contract, the *firm* does not need to re-present the list for the purposes of ■ MCOB 4.8A.10R(1).

- (5) *Firms* are reminded of *Principles 6* and *7*: that is, that they must pay due regard to the best interests of their *customers* and treat them fairly; and that they must pay due regard to the information needs of their *clients*, and communicate information to them in a way which is clear, fair and not misleading. Where features of a product have changed in such a way that the product is in effect no longer recognisable as the same product, *firms* should re-present the new list of products. Similarly, *firms* should re-present the new list of products where there is any change to interest rates, fees or other charges which is likely to be material to the *customer's* decision as to whether or how to vary a *regulated mortgage contract*.

Exception: rejected advice

- 4.8A.12 **R** ■ MCOB 4.8A.7 R does not apply where the *customer* has rejected advice given by a *firm* and instead wishes to enter into a different *regulated mortgage contract* as an *execution-only sale* (see ■ MCOB 4.8A.14 R).

Execution-only sales: guidance

- 4.8A.13 **G**
- (1) If a *firm* wishes to be able to apply the exception in ■ MCOB 4.8A.9 R for a *high net worth mortgage customer*, it should first consider the provision in ■ MCOB 1.2.9C R (Requirement for evidence before treating a loan as being solely for business purposes, or a customer as a high net worth mortgage customer or a professional customer).
 - (2) Where a *firm's* business model is such that it does not offer advice on *regulated mortgage contracts* to particular *customers*, it should ensure that it does not enter into or *arrange regulated mortgage contracts* for *customers* in breach of ■ MCOB 4.8A.7 R. Such a *firm* may wish to use filtering questions which the *customer* is required to answer before he is able to proceed, in order to establish whether any of the exceptions to ■ MCOB 4.8A.7 R apply.

Requirements for execution-only sales

- 4.8A.14 **R** A *firm* must not enter into or *arrange an execution-only sale* for a *regulated mortgage contract* unless, except as provided in ■ MCOB 4.8A.15 R:
- (1) for a new *regulated mortgage contract* not falling within ■ MCOB 4.8A.10 R, the *customer* has identified the *regulated mortgage contract* he wishes to purchase, specifying to the *firm* at least the following information:
 - (a) the name of the *mortgage lender*;
 - (b) the rate of interest;
 - (c) the interest rate type (that is, whether fixed, variable or some other type);
 - (d) the price or value of the property on which the *regulated mortgage contract* would be secured (estimated where necessary);
 - (e) the length of the term required by the *customer*;

- (f) the sum the *customer* wishes to borrow; and
 - (g) whether the *customer* wants an *interest-only mortgage* or a *repayment mortgage*;
- (2) for a contract variation not falling within ■ MCOB 4.8A.10 R (but permitted by ■ MCOB 4.8A.7 R), the *customer* has specified at least the following information, where applicable to the variation he wishes to enter into:
- (a) the price or value of the property;
 - (b) the length of term required (or confirmation that this should remain unchanged); and
 - (c) the amount the *customer* wishes to borrow;
- (3) for a contract variation falling within ■ MCOB 4.8A.10 R, the *customer* has specified the variation he wishes to enter into;
- (4) the *customer* has been informed, either clearly and prominently and in a *durable medium* or in an oral statement that is audio or video recorded (after providing the information in (1), (2), or (3), where that is required), and with the information required by this paragraph being separate from any other information or contractual documentation):
- (a) in any case falling within ■ MCOB 4.7A.24 R (Rejected advice) where the *firm* has advised the *customer* that the *regulated mortgage contract* (or variation) is unsuitable for the *customer*, that that is the case; or
 - (b) in any other case, that in the provision of its services for the *execution-only sale* the *firm* is not required to assess the suitability of that *regulated mortgage contract* (or variation); and in either case that the *customer* will not benefit from the protection of the rules (in ■ MCOB 4.7A) on assessing suitability. In any case where there is spoken dialogue between the *firm* and the *customer* at any point during the sale, other than dialogue of a sort permitted by ■ MCOB 4.8A.7AR, the *firm* must provide this information orally (even if it also provides it in a *durable medium*); and
- (5) once the *customer* has been provided with the information in (4), in any case where there is spoken or other interactive dialogue between the *firm* and the *customer* at any point during the sale, the *customer* has confirmed in writing to the *firm*, or has confirmed orally to the *firm* (and that confirmation is audio or video recorded), that they are aware of the consequences of losing the protections of the *rules* on assessing suitability and are making a positive election to proceed with an *execution-only sale*.

4.8A.15



The requirements in ■ MCOB 4.8A.14R (1) to ■ (3) do not apply if the *customer* is a *high net worth mortgage customer* or entering into the *regulated mortgage contract* solely for a business purpose.

4.8A.16 **G** Where the information in ■ MCOB 4.8A.14R (4) is given by electronic means, the *firm* should ensure that the *customer* cannot progress to the next stage of the sale unless the information has been communicated to the *customer*.

4.8A.16A **G** The confirmation required by ■ MCOB 4.8A.14R(5) need not be in the same document or recording as the information required by ■ MCOB 4.8A.14R(4).

Managing execution-only sales

4.8A.17 **R** [deleted]

Record keeping

- 4.8A.18** **R**
- (1) Whenever a *firm* enters into or *arranges* an *execution-only sale* for a *regulated mortgage contract*, it must make and maintain a record of:
 - (a) the information provided by the *customer* which satisfies ■ MCOB 4.8A.14R (1), ■ (2) or ■ (3);
 - (b) the provision of the information in ■ MCOB 4.8A.14R (4);
 - (c) (where applicable) the confirmation by the *customer* in ■ MCOB 4.8A.14R (5); and
 - (d) any advice from the *firm* which the *customer* rejected, including the reasons why it was rejected, before deciding to enter into an *execution-only sale*.
 - (2) The record in (1) must be retained for a minimum of three years from the date on which the *regulated mortgage contract* was entered into or *arranged* (or the variation was entered into or *arranged*).
 - (3) [deleted]

Forbearance

4.8A.19 **R** ■ MCOB 4.8A does not apply to any variation which is made solely for the purposes of forbearance where the *customer* has a *payment shortfall*, or in order to avoid a *payment shortfall*.



4.9 Business loans and loans to high net worth mortgage customers: tailored provisions

4.9.1 R [deleted]

4.9.1A G *Firms* are reminded that in accordance with ■ MCOB 1.2.3 R and ■ MCOB 1.2.3A R, they should comply in full with *MCOB*, but in doing so may opt to take account of all tailored provisions in *MCOB* that relate to business loans or loans to *high net worth mortgage customers*, as the case may be. Therefore, a *firm* may only follow the tailored provisions in ■ MCOB 4.9 in relation to one of these sectors if it also follows all other tailored provisions in *MCOB* that relate to that sector. In either case, the rest of *MCOB* applies in full..

4.9.2 G [deleted]

Initial disclosure document

4.9.3 G [deleted]

- 4.9.4 G
- (1) *Firms* are reminded that ■ MCOB 1.2.7 R enables them to substitute an alternative for 'mortgage' in the initial disclosure in relation to a *regulated mortgage contract* for a business purpose or a *high net worth mortgage customer*.
 - (2) [deleted]
 - (3) Where the initial disclosure in relation to a *regulated mortgage contract* for a business purpose or a *high net worth mortgage customer* makes reference to the permitted business of a *firm*, a *firm* can add text explaining the relevance of these descriptions. One approach may be to add an additional sentence such as: 'Secured overdrafts are referred to here as "mortgages" because they involve a charge being taken over your property'.

4.9.5 R [deleted]



4.10 Home purchase plans: sales standards

Scope of service provided

4.10.1 **R** [deleted]

Initial disclosure requirements

4.10.2 **R** [deleted]

4.10.3 **G** [deleted]

4.10.3A **R** A *firm* must comply with the *rules* in **■ MCOB 4.4A** as if the references in those *rules* to *regulated mortgage contracts* and *mortgage lenders* were to, respectively, *home purchase plans* and *home purchase providers*.

4.10.3B **R** For the purposes of **■ MCOB 4.4A.2R (1)** there is one relevant market for *home purchase plans*.

4.10.4 **G** The guidance on initial disclosure requirements in **■ MCOB 4.4A** may be relevant; in this context, that *guidance* should be read using *home purchase plan* terminology instead of the equivalent *regulated mortgage contract* terminology, where appropriate.

Additional requirements for distance home purchase mediation contracts with retail customers

Note: The rules regarding additional disclosure requirements for, and cancellation of, *distance home purchase mediation contracts* are set out in **■ MCOB 4.5** and **■ MCOB 4.6** respectively.

Advised sales: suitability

4.10.5 **G** [deleted]

4.10.5A **R** If a *firm* gives advice to a particular *customer* to enter into a *home purchase plan*, or to vary an existing *home purchase plan*, it must take reasonable steps to ensure that the *home purchase plan* is, or after the variation will be, suitable for that *customer*.

- 4.10.5B** **R** In **■ MCOB 4.10**, a reference to advice to enter into a *home purchase plan* is to be read as including advice to vary an existing *home purchase plan*.
- 4.10.5C** **G** A *firm* should take reasonable steps to obtain from a *customer* all information likely to be relevant for the purposes of **■ MCOB 4.10.5A R** to **■ MCOB 4.10.9A R**.
- 4.10.5D** **R** For the purposes of **■ MCOB 4.10.5A R**:
- (1) a *home purchase plan* will not be suitable for a *customer* unless the *home purchase plan* is appropriate to the needs and circumstances of the *customer*;
 - (2) a *firm* must base its determination of whether a *home purchase plan* is appropriate to a *customer's* needs and circumstances on the facts disclosed by the *customer* and other relevant facts about the *customer* of which the *firm* is or should reasonably be aware;
 - (3) no advice must be given to a *customer* to enter into a *home purchase plan* if there is no *home purchase plan* which is suitable from the product range offered by the *firm*;
 - (4) if a *home purchase provider* is dealing with an existing *customer* in arrears, with a *payment shortfall* or otherwise in breach of their *home purchase plan* and has concluded that there is no suitable replacement *home purchase plan*, the *firm* must nonetheless have regard to **■ MCOB 13.3**; and
 - (5) the reasonable steps in that *rule* include considering why it is not appropriate for the *customer* to take out a *regulated mortgage contract*.
- 4.10.6** **R** [deleted]
- 4.10.6A** **G** **■ MCOB 4.10.5DR (3)** has the effect that a *firm* cannot recommend the 'least worst' *home purchase plan* where the *firm* does not have access to *home purchase plan* products appropriate to the *customer's* needs and circumstances.
- 4.10.7** **G** *Firms* may wish to consider the following provisions:
- (1) the *rule* at **■ MCOB 4.7A.6 R** on the *customer's* needs and circumstances, as if it were *guidance* and to the extent applicable to *home purchase plans*; and
 - (2) the *guidance* at **■ MCOB 4.7A.1G (2)**, **■ MCOB 4.7A.21 G** and **■ MCOB 4.7A.23 G** (Other considerations when advising);
in each case using *home purchase plan* terminology instead of the equivalent *regulated mortgage contract* terminology, where appropriate.

4.10.8 **R** [deleted]

4.10.9 **G** [deleted]

Rejected recommendations

4.10.9A **R** If a *customer* has rejected the advice given by a *firm* and instead requested an *execution-only sale* of a *home purchase plan*, the *firm* may enter into or arrange that *execution-only sale* provided the requirements in ■ MCOB 4.8A.14 R (as applied in relation to *home purchase plans* by ■ MCOB 4.10.9B R and modified for *home purchase plans* by ■ MCOB 4.10.9D R) are satisfied.

Execution-only sales

4.10.9B **R** ■ MCOB 4.8A applies to a *firm* as if the references in that section to *regulated mortgage contracts* and *mortgage lenders* were to, respectively, *home purchase plans* and *home purchase providers*, but ■ MCOB 4.8A.14R (1) and ■ (2) are modified in relation to *home purchase plans* as set out in ■ MCOB 4.10.9D R.

4.10.9C **G** As provided in ■ MCOB 4.1.2B R, ■ MCOB 4.8A only applies to *home purchase providers* in relation to entering into *home purchase plans* where there is no *firm* which is *arranging* the transaction and to which ■ MCOB 4.8A applies.

4.10.9D **R** For *home purchase plans*, the following items of information replace those set out in ■ MCOB 4.8A.14R (1) and ■ (2):

- (1) the name of the *home purchase provider*;
- (2) the length of the term required by the *customer*; and
- (3) the sum required from the *home purchase provider*.

Risks and features statement and tariff of charges

4.10.10 **R** A *firm* must, before *advising* a *customer* to enter into, or entering into or *arranging* a *home purchase plan* as an *execution-only sale*, ensure that the *customer* is, or has been, provided with an appropriate risks and features statement about that plan.

4.10.11 **R** A risks and features statement need not be personalised to the *customer's* circumstances but must:

- (1) include the Key facts logo in a prominent position at the top of the statement;
- (2) state that the *FCA* requires a *firm* to provide the statement;
- (3) state that mortgages are available and that the *customer* should think carefully about the product appropriate to his needs;

- (4) describe the significant features of the plan, including:
 - (a) how the *home purchase plan* works;
 - (b) the nature of the *customer's* commitment;
 - (c) when and how a *customer's* commitment is reviewed;
 - (d) any significant restrictions of the plan; and
 - (e) the charges that a *customer* may incur under the plan, including the reason for, and amount of, each charge, when they are payable, whether they will be reimbursed and, if so, when;
- (5) describe the risks associated with the plan, including:
 - (a) the risks to the *customer* if he fails to keep up repayments and the circumstances in which this might occur; and
 - (b) risks to the *customer* of the *home purchase provider failing* or disposing of any of its obligations or rights (including its interest in the property) to a third party (taking into account steps that will be taken by the *home purchase provider* to mitigate such risks); and
- (6) state the importance of obtaining independent legal advice.

4.10.12 R A *firm* may omit details of the charges that a *customer* may incur under a *home purchase plan* from the risks and features statement if they are included in a separate *tariff of charges* provided to the *customer* at the same time.

Record keeping

4.10.13 R (1) A *firm* must make and retain a record:

- (a) of the *customer* information, including that relating to the *customer's* needs and circumstances that it has obtained for the purposes of ■ MCOB 4.10.5D R;
- (b) that explains why the *firm* has concluded that any advice given to a *customer* complies with ■ MCOB 4.10.5A R and satisfies the suitability requirement in ■ MCOB 4.10.5DR (1); and
- (c) of any advice which the *customer* has rejected, including the reasons why it was rejected and details of the *home purchase plan* which the customer has proceeded with as an *execution-only sale*.

(2) The records in (1) must be retained for a minimum of three years from the date on which the advice was given.

4.10.14 G *Firms* should note the record-keeping requirements in ■ MCOB 4.8A in relation to *execution-only sales* which are imposed in relation to *home purchase plans* by ■ MCOB 4.10.9B R.

4.11 Sale and rent back: advising and selling standards

Initial disclosure requirements

- 4.11.1** **R** (1) A regulated sale and rent back firm, must make the following disclosures to a customer; both orally and in writing; during the initial contact:
- (a) the service the firm is offering the customer, making it clear whether the firm will be acting as a SRB agreement provider, a SRB adviser or a SRB arranger and the particular regulated sale and rent back activities for which the firm has a Part 4A permission;
 - (b) if the firm is acting as an intermediary, whether it deals with a single or a range of SRB agreement providers and whether or not those providers are authorised under the Act; and
 - (c) how much the firm will receive in connection with the transaction, whether by way of fees, commissions, charges, retentions or otherwise and whether any such sum will be payable out of the sale proceeds of the property, paid directly by the customer or provider or otherwise and whether or not any of these will be payable if the customer decides not to enter into a regulated sale and rent back agreement.
- (2) If the precise fees, commissions, charges, retentions or other sums in (1)(c) are not known in advance, the firm should estimate the amount likely to apply in respect of the transaction.

FCA consumer factsheet on sale and rent back

- 4.11.2** **R** (1) As soon as the customer expresses an interest in becoming a SRB agreement seller, a regulated sale and rent back firm must provide the customer with the MoneyHelper consumer factsheet on sale and rent back in a durable medium, which may be accessed through <https://www.moneyhelper.org.uk>.
- (2) On providing the MoneyHelper consumer factsheet in (1) to the customer, the firm must give the customer an oral explanation of it, so as to ensure its contents are fully understood.

Advised sales

- 4.11.3** **R** A regulated sale and rent back firm must not permit a potential SRB agreement seller to become contractually committed to enter into a regulated sale and rent back agreement unless it has reasonable grounds to

be satisfied that a *firm* with *permission* to advise on regulated sale and rent back agreements has *advised* the particular *customer* to enter into it.

Suitability

- 4.11.3A** **R** A *firm* must take reasonable steps to ensure that it does not *advise* a particular *customer* to enter into a *regulated sale and rent back agreement* unless the *regulated sale and rent back agreement* is suitable for that *customer*.
- 4.11.3B** **G** A *firm* should take reasonable steps to obtain from a *customer* all information likely to be relevant for the purposes of **■ MCOB 4.11.3A R**.
- 4.11.3C** **R** For the purposes of **■ MCOB 4.11.3A R**:
- (1) a *regulated sale and rent back agreement* will not be suitable unless, having regard to the facts disclosed by the *customer* and other relevant facts about the *customer* of which the *firm* is or should reasonably be aware, the *firm* concludes on reasonable grounds that:
 - (a) the *customer* can afford the payments he will be liable to make under it; and
 - (b) the proposed *regulated sale and rent back agreement* is appropriate to the needs and circumstances of the *customer*;
 - (2) a *firm* must base its determination of whether a *customer* can afford the payments he will be liable to make under a *regulated sale and rent back agreement*, and whether it is appropriate to his needs and circumstances, on the facts disclosed by the *customer* and other relevant facts about the *customer* of which the *firm* is or should reasonably be aware;
 - (3) no advice must be given to a *customer* to enter into a *regulated sale and rent back agreement* if there is no *regulated sale and rent back agreement* which is suitable from within the product range offered by the *firm*.
- 4.11.4** **E** (1) In assessing whether a *customer* can afford to enter into a particular *regulated sale and rent back agreement*, a *firm* should use the following information:
- (a) the rental payments that will be due under the tenancy agreement which confers the right of the *customer* (or trust beneficiary or related party) to continue residing in the property, stress tested to take account of possible future rental increases during the fixed term of the tenancy agreement by reference to the circumstances in which the agreement permits increases or changes to the initial rent;
 - (b) adequate information, obtained from the *customer* to establish his average income and expenditure calculated on a monthly basis, and any other resources that he has available, and verified by the firm using evidence provided by the *customer*;
 - (c) the *customer's* net disposable income, which a *firm* should establish using the information referred to in (b);

- (d) the *customer's* entitlement to means-tested benefits and housing benefits; and
 - (e) the effect of any likely future change to the *customer's* income, expenditure or resources during the period of the *regulated sale and rent back agreement*.
- (2) The *firm* should explain to the *customer* that it will base its assessment on whether he can afford to enter into the particular *regulated sale and rent back agreement* on the information he provides to the *firm* about his income, expenditure and resources.
- (3) In assessing affordability under (1) the *firm*:
- (a) must not rely to a material extent on the capital of, or income from, any lump sum the *customer* receives which represents the net sale proceeds of the property; and
 - (b) must disregard any discount or any future sum that may be payable to the *customer* under the terms of the *regulated sale and rent back agreement*.
- (4) Contravention of (1), (2) or (3) may be relied upon as tending to show contravention of ■ MCOB 4.11.3CR (1)(a).

4.11.4A

R

In assessing whether the *regulated sale and rent back agreement* is appropriate to the needs and circumstances of the *customer* for the purposes of ■ MCOB 4.11.3CR (1)(b), as a minimum requirement a *firm* must consider the following list of factors:

- (1) whether it is appropriate for the *customer* to sell his property for a price less than its value (as determined by the valuation which is required by ■ MCOB 6.9.2 R, including where applicable a valuation obtained by the *SRB agreement seller* as described in ■ MCOB 6.9.2R (4)) (where this is proposed under the *regulated sale and rent back agreement*);
- (2) whether it is appropriate for the *customer* because he is in financial difficulty;
- (3) whether all other options have been explored and eliminated, including the *customer* speaking to his *home finance provider* and other creditors, getting debt advice, releasing the equity by other means and checking whether he is eligible for government or local authority help;
- (4) whether it would be more appropriate for the *customer* to sell his home on the open market;
- (5) whether the benefits to the *customer* in entering into the proposed *regulated sale and rent back agreement* outweigh any adverse effects it may have for him, including on his entitlement to means-tested benefits and housing benefits;
- (6) the feasibility of the *customer* raising funds by alternative methods other than by a sale of his property; and

- (7) if the *customer* is not under threat of repossession, why it is appropriate for the *customer* to take out a *regulated sale and rent back agreement* rather than to use an alternative method of finance.
- 4.11.4B** E The following may be relied on as tending to show contravention of ■ MCOB 2.5A.1 R (The customer's best interests):
- (1) an attempt by the *firm* to misdescribe the *customer's* reasons for considering a *regulated sale and rent back agreement*; or
 - (2) an attempt to encourage a *customer* to enter into a *regulated sale and rent back agreement* involving a sale price for his property which is less than its value (as determined by the valuation which is required by ■ MCOB 6.9.2 R, including where applicable a valuation obtained by the *SRB agreement seller* as described in ■ MCOB 6.9.2R (4)) if he is not under threat of repossession.
- 4.11.4C** G *Firms* are reminded that the list in ■ MCOB 4.11.4A R is not exhaustive. For certain *customers* there may be additional considerations to explore beyond those described in that rule.
- 4.11.5** E [deleted]
- 4.11.6** G In considering the *customer's* entitlement to the means-tested benefits and housing benefits for the affordability and appropriateness assessment, a *firm* may rely on information provided to it by the *customer*, provided it is satisfied on reasonable grounds that the customer has received advice from the appropriate HM Government department or other appropriate source of independent advice as to his position.
- 4.11.7** G
- (1) A consideration of the *customer's* benefits position will need to focus on whether, by entering into the proposed *regulated sale and rent back agreement*, his entitlement to means-tested benefit will be adversely affected because of his receipt of the net proceeds of sale (if any) of the property. The *customer's* possible loss of entitlement to claim housing benefit should also be assessed. Where a *firm* has insufficient knowledge of means-tested and housing benefits to reach a conclusion on this, it should advise the customer to contact the appropriate HM Government department or other appropriate source of independent advice to establish the position. The *firm* should then wait for the customer to obtain the relevant information before proceeding with its assessment.
 - (2) The *firm* should consider whether a *customer* with a *payment shortfall* under his *regulated mortgage contract* or *home purchase plan* has contacted his *mortgage lender* or *home purchase provider* to discuss possible forbearance options that may be available. Other possible alternative methods of raising funds will include the availability of local authority or other government rescue schemes that might apply in the *customer's* circumstances.
 - (3) *Firms* are reminded that under ■ MCOB 4.11.2R they are required to provide the *customer* with the *FCA* consumer factsheet on sale and

rent back and give him an oral explanation of its contents. The *FCA* expects this to be done in the course of a face-to-face meeting. *Firms* will be expected in the course of this discussion with the *customer* to explain alternative options that may be available to him, such as liaising with his *mortgage lender* or *home purchase provider* to negotiate a forbearance strategy or approaching his local authority about the availability of mortgage rescue schemes.

Record keeping

4.11.8

R

- (1) A *firm* must make and retain a record of the *customer* information that has been provided to it, including that relating to:
 - (a) the *customer's* income, expenditure and other resources that it has obtained from him for the purpose of assessing affordability, together with the stress testing of the rental payments;
 - (b) the *customer's* needs, objectives and individual circumstances that it has obtained from him for the purpose of assessing appropriateness; and
 - (c) the *customer's* entitlement to means-tested benefits and housing benefits, including any evidence provided by the *customer*, that it has obtained from him for the affordability and appropriateness assessment;and which explains why the *firm* concluded that the *regulated sale and rent back agreement* was suitable for the *customer* and why it advised him to enter into it..
- (2) The record in (1) must be retained for a minimum of five years from the date on which the assessment of suitability was made, or one year after the end of the fixed term of the tenancy agreement under the *regulated sale and rent back agreement*, if later.

Reliance on another firm

4.11.9

R

A *firm* need not comply with the requirements imposed on a *regulated sale and rent back firm* in this section to the extent that it is satisfied on reasonable grounds that another *firm*, with the appropriate *permission* to do so, has already done so.

4.11.10

G

The effect of **■ MCOB 4.11.9R** is that a *SRB agreement provider* is expected to advise in relation to a particular *regulated sale and rent back agreement*, unless it is reasonable for it to rely on another *firm* with *permission* to advise on *regulated sale and rent back agreements*, to have done so in relation to a particular transaction.

Additional information requirements in respect of distance mortgage mediation contracts, distance home purchase mediation contracts and distance regulated sale and rent back mediation contracts with consumers

This table belongs to ■ MCOB 4.5.2 R

Additional information for distance contracts with retail customers consumers	
All the contractual terms and conditions on which the service will be provided including, in particular, the following information:	
(1)	where the <i>firm</i> has a representative established in the <i>United Kingdom</i> , the identity of that representative and the geographical address relevant to the <i>consumer's</i> relations with him;
(2)	where the <i>consumer's</i> dealings are with any professional other than the <i>firm</i> , the identity of that professional, the capacity in which he is acting with respect to the <i>consumer</i> , and the geographical address relevant to the <i>consumer's</i> relations with that professional;
(3)	in relation to the contract: (a) any limitations of the period for which the information provided is valid; (b) in relation to services performed permanently or recurrently, the minimum duration of the contract;
(4)	in relation to the cost of the service: (a) notice of the possibility that other taxes or costs may exist that are not paid through the <i>firm</i> or imposed by it; and (b) any specific additional cost to the <i>consumer</i> , if any, for using a means of distance communication;
(5)	the existence or absence of a right to cancel. Where there is such a right: (a) its duration and the conditions for exercising the right to cancel, including information on the amount which the <i>consumer</i> may be required to pay (or which may not be returned to the <i>consumer</i>) if the contract is terminated early or unilaterally under its terms; (b) the consequences of not exercising the right to cancel; and (c) practical instructions for exercising the right to cancel, including as a minimum the method in MCOB 4.6.5 R (1), details of the address to which the cancellation notice should be sent and the fact that the notice must clearly indicate, however expressed, the <i>consumer's</i> intention to cancel the contract; and
(6)	details of: (a) [deleted] (b) any contractual clause on law applicable to the <i>regulated mortgage contract</i> , <i>home purchase plan</i> or <i>regulated sale and rent back agreement</i> or on competent court, or both; and (c) the language in which the contract is supplied and in which the <i>firm</i> will communicate during the course of the <i>regulated mortgage contract</i> , <i>home purchase plan</i> or <i>regulated sale and rent back agreement</i> .

Chapter 4A

Additional MCD advising and selling standards

		4A.1	Additional disclosure by MCD mortgage credit intermediaries
4A.1.1	R	<p>An <i>MCD mortgage arranger</i> (unless it is also acting as an <i>MCD mortgage lender</i> and carrying out a direct sale of the proposed regulated mortgage contract) must, in good time before carrying out any <i>MCD mortgage credit intermediation activity</i>, provide the <i>consumer</i> with at least the following information in a <i>durable medium</i>:</p> <ol style="list-style-type: none"> (1) the identity and the geographical address of the <i>MCD mortgage arranger</i>; (2) the <i>Financial Services Register</i> or other registers in which the <i>MCD mortgage arranger</i> has been included, the registration numbers, where applicable, and the means for verifying such registrations; (3) whether the <i>MCD mortgage arranger</i> is an <i>MCD mortgage adviser</i>; and (4) the procedures allowing <i>consumers</i> or other interested parties to complain to the <i>MCD mortgage arranger</i>, whether complaints may subsequently be referred to the <i>Financial Ombudsman Service</i> and, if so, the methods of having access to it. <p>[Note: article 15(1)(a), (b), (d) and (f) of the <i>MCD</i>]</p>	
4A.1.2	G	<p>In ■ MCOB 4A.1.1R (4):</p> <ol style="list-style-type: none"> (1) other interested parties includes all parties to the relevant <i>MCD regulated mortgage contract</i> and parties that have an interest in the <i>MCD regulated mortgage contract</i>, such as a guarantor of the obligations under the <i>MCD regulated mortgage contract</i>; (2) where the <i>MCD mortgage arranger</i> provides the information in the general terms and conditions of the sales or service contracts, before carrying out any <i>MCD mortgage credit intermediation activity</i>, it need not provide it again. 	
4A.1.3	G	<p>The information listed in ■ MCOB 4A.1.1 R need not all be given at the same time or in the same disclosure.</p>	
4A.1.4	G	<p>In general, where other requirements for disclosure in a <i>durable medium</i> also apply, the <i>MCD mortgage arranger</i> may, if it would also satisfy those requirements, combine those other disclosures with the information required</p>	

by ■ MCOB 4A.1.1 R, so long as the combined disclosure is provided to the consumer in good time before the *MCD mortgage arranger* carries out any *MCD mortgage credit intermediation activity*.

- 4A.1.5 **R** An *MCD mortgage credit intermediary* who is not a *tied MCD mortgage credit intermediary* (unless it is also acting as an *MCD mortgage lender* and carrying out a direct sale of the proposed *regulated mortgage contract*), but who receives commission from one or more *MCD mortgage lenders* must, at the consumer's request, provide information on the variation in levels of commission payable by the *MCD mortgage lenders* providing the *MCD regulated mortgage contract* being offered to the consumer. The consumer must be informed that they have the right to request such information.

[Note: article 15(2) of the *MCD*]

- 4A.1.6 **R** An *MCD mortgage credit intermediary* (unless it is also acting as an *MCD mortgage lender* and carrying out a direct sale of the proposed *regulated mortgage contract*) must inform the *MCD mortgage lender* of any fee payable by the consumer to the *MCD mortgage credit intermediary* for its services, for the purpose of calculating the *APRC*.

[Note: article 15(4) of the *MCD*]

- 4A.1.7 **R** An *MCD mortgage credit intermediary* (unless it is also acting as an *MCD mortgage lender* and carrying out a direct sale of the proposed *regulated mortgage contract*) must require their *appointed representatives* to disclose to the consumer the capacity in which the *appointed representative* is acting and the *MCD mortgage credit intermediary* that the *appointed representative* is representing when contacting or before dealing with any consumer.

[Note: article 15(5) of the *MCD*]

4A.2 Adequate explanations

4A.2.1

R

- (1) An *MCD mortgage lender* or *MCD mortgage credit intermediary* must provide, orally or in a *durable medium*, adequate explanations to the *consumer* of the proposed *MCD regulated mortgage contract* and any ancillary services, before any binding offer is issued to that *consumer*, to enable the *consumer* to assess whether the proposed *MCD regulated mortgage contract* and ancillary services meets their needs and financial situation.

[Note: article 16(1) of the *MCD*]

- (2) The explanations must, where applicable, include:
- (a) the pre-contractual information to be provided in accordance with:
 - (i) the *ESIS* or *illustration*; and
 - (ii) in the case of an *MCD mortgage credit intermediary* (unless it is also acting as an *MCD mortgage lender* and carrying out a direct sale of the proposed *MCD regulated mortgage contract*), ■ MCOB 4.4A.1R (1) and ■ MCOB 4.4A.1R (2), ■ MCOB 4.4A.4 R, ■ MCOB 4.4A.8R (1)(a), ■ (c), ■ (d) and ■ (2), and ■ MCOB 4A.1.1 R to ■ MCOB 4A.1.7 R
 - (b) the essential characteristics of the products proposed;
 - (c) the specific effects the products proposed may have on the *consumer*, including the consequences of default in payment by the *consumer*; and
 - (d) where ancillary services are bundled with an *MCD regulated mortgage contract*, whether each component of the bundle can be terminated separately and the implications for the *consumer* of doing so.

[Note: article 16(1) of the *MCD*]

4A.2.2

R

In complying with ■ MCOB 4A.2.1 R, a *firm* may adapt the manner and extent of giving the explanations, as well as the person giving them, according to:

- (1) the circumstances of the situation in which the *MCD regulated mortgage contract* is offered;
- (2) the *consumer* to whom it is offered; and
- (3) the nature of the *MCD regulated mortgage contract* offered.

[Note: article 16(2) of the *MCD*]

4A.2.3

G

The explanations given to a *consumer* for the purposes of complying with ■ MCOB 4A.2.1 R do not amount to advice to that *consumer*. *Firms* may wish to refer to *PERG* (particularly ■ PERG 4.6) for guidance on the regulatory perimeter in relation to *advising on a home finance transaction*.



4A.3 Record of recommendation

- 4A.3.1

R

An *MCD mortgage adviser*, or any other *firm* that is an *MCD mortgage lender* or an *MCD mortgage arranger* that provides advisory services within the meaning of article 4(21) of the *MCD*, must, for the particular transaction, explicitly inform the *consumer* whether advisory services are being, or can be, provided to the *consumer*.

[**Note:** article 22(1) of the *MCD*]
- 4A.3.2

R

Where an *MCD mortgage adviser*, or any other *firm* that is an *MCD mortgage lender* or an *MCD mortgage arranger* that provides advisory services within the meaning of article 4(21) of the *MCD*, advises on a transaction relating to an *MCD regulated mortgage contract*, it must give the *consumer* a record on paper, or in another *durable medium*, of the recommendation provided.

[**Note:** article 22(3)(e) of the *MCD*]
- 4A.3.3

G

The record in ■ MCOB 4A.3.2 R may consist of the completed *ESIS* or *illustration*.

Chapter 5

Pre-application disclosure



5.1

Application

Who?

5.1.1

R

Subject to ■ MCOB 5.1.2A R, this chapter applies to a *firm* in a category listed in column (1) of the table in ■ MCOB 5.1.2 R in accordance with column (2) of that table.

5.1.2

R

This table belongs to ■ MCOB 5.1.1 R

(1) Category of firm	(2) Applicable section
<i>mortgage lender</i>	whole chapter except MCOB 5.8
<i>mortgage adviser</i>	
<i>mortgage arranger</i>	
<i>home purchase provider</i>	MCOB 5.1.1 R to MCOB 5.1.3 R, MCOB 5.1.6 R to MCOB 5.1.8 G, MCOB 5.2, MCOB 5.3 and MCOB 5.8.
<i>home purchase adviser</i>	MCOB 5.5 and MCOB 5.6 in accordance with MCOB 5.8
<i>home purchase arranger</i>	see MCOB 9.3 for the application of this chapter
<i>reversion provider</i>	
<i>reversion adviser</i>	
<i>reversion arranger</i>	
<i>SRB adviser</i>	MCOB 5.1.1 R to MCOB 5.1.3 R, MCOB 5.2 and MCOB 5.9
<i>SRB agreement provider</i>	MCOB 5.1.1 R to MCOB 5.1.3 R, MCOB 5.2, MCOB 5.9.1 R to MCOB 5.9.2 R (including MCOB 5.9.1A G to MCOB 5.9.1F R), MCOB 5.9.6 R and MCOB 5.9.7G
<i>SRB arranger</i>	MCOB 5.1.1 R to MCOB 5.1.3R, MCOB 5.2 and MCOB 5.9

5.1.2A

R

This chapter does not apply to a *firm* that is an *MCD mortgage lender* or *MCD mortgage credit intermediary*.

What?

5.1.3

R

(1) This chapter applies if a *firm*:
(a) *advises* a particular *customer* to enter into, or *arranges* an *execution-only sale* in, a *home finance transaction*; or

(b) provides information to a *customer* that is specific to the amount to be provided on a particular *home finance transaction*, including information provided in response to a request from a *customer*; or

(c) provides the means for a *customer* to make an application to it; in connection with entering into, or agreeing to enter into, a *home finance transaction* provided by a *home finance provider*, other than an *equity release transaction* or a variation to an existing *home finance transaction*.

(2) In relation to further advances and other variations, ■ MCOB 5 is modified by ■ MCOB 7 (Disclosure at start of contract and after sale), regardless of whether they are variations to an existing *home finance transaction*, or are such that they involve the *customer* entering into a new *home finance transaction*.

(3) In relation to an *equity release transaction*, ■ MCOB 5 is modified by ■ MCOB 9 (Equity release: product disclosure).

5.1.4 G The table in ■ MCOB 5.1.5 G shows how the relevant *rules* and *guidance* in ■ MCOB 5.6 apply to certain types of *regulated mortgage contracts*.

5.1.5 G This table belongs to **MCOB 5.1.4G**

Type of mortgage	Requirements that do not apply	Additional or alternative requirements
Multi-part mortgages	MCOB 5.6.42 R (3) MCOB 5.6.46 R	MCOB 5.6.28 R MCOB 5.6.54 R - MCOB 5.6.57 G
Foreign currency mortgages	N/A	MCOB 5.6.127 R - MCOB 5.6.128 R
Deferred interest rate mortgages	N/A	MCOB 5.6.132 R
Mortgages without a term or regular payment plan	MCOB 5.6.31 R MCOB 5.6.40 R - MCOB 5.6.57 G MCOB 5.6.59 R - MCOB 5.6.65 R	MCOB 5.6.32 R MCOB 5.6.134 R - MCOB 5.6.145 R
<i>Retirement interest-only mortgages</i>	MCOB 5.6.31R MCOB 5.6.52R(1) MCOB 5.6.52R(4) MCOB 5.6.140R – MCOB 5.6.145R	MCOB 5.6.32R MCOB 5.6.59R – MCOB 5.6.65R

5.1.6 R In this chapter, references to a *home finance transaction* include, where the context requires, references to arrangements which are capable of becoming a *home finance transaction*.

5.1.7	G	<p>(1) ■ MCOB 5.1.3 R means that this chapter applies where the <i>customer</i> can apply to enter into a <i>home finance transaction</i>. This includes circumstances where, for example, the means to apply is provided in person, by telephone, through a website or through an application pack sent through the post.</p> <p>(2) The effect of this chapter is to require a <i>customer</i> to be provided with key information about a <i>home finance transaction</i> before he submits an application to a <i>home finance provider</i>.</p>
5.1.8	G	[deleted]
5.1.9	G	In relation to a <i>regulated mortgage contract</i> , where part of the loan is not a <i>regulated mortgage contract</i> , for example it is a linked unsecured loan, the details of this loan can be shown in Section 12 of the <i>illustration</i> as an additional feature. It should not be added to the <i>regulated mortgage contract</i> loan amount in ■ MCOB 5.6.6 R(2).
5.1.10	G	A <i>firm</i> that finds any <i>rule</i> in ■ MCOB 5.6 (Content of illustrations) inappropriate for the particular kind of <i>regulated mortgage contract</i> that the <i>mortgage lender</i> provides will need to seek from the <i>FCA</i> a <i>waiver</i> of that <i>rule</i> , unless another <i>rule</i> provides otherwise. ■ SUP 8 contains details of the <i>waiver</i> procedure.

5.2 Purpose

5.2.1

G

- (1) ■ MCOB 5 amplifies *Principle 6* and *Principle 7*.
- (2) The purpose of ■ MCOB 5 is to ensure that, before a *customer* submits an application for a particular *home finance transaction*, he is supplied with information that makes clear:
 - (a) (in relation to a *regulated mortgage contract*) its features, any *linked deposits*, any *linked borrowing* and any *tied products*; and
 - (b) the price that the *customer* will be required to pay under that *home finance transaction*, to enable the *customer* to make a well-informed purchasing decision.
 - (c) [deleted]
- (3) ■ MCOB 5 requires information to be disclosed in a consistent way to facilitate comparison between products of different providers.

5



5.3 Applying for a home finance transaction

5.3.1 R A home finance provider must not enter into a home finance transaction, or agree to do so, with a customer unless the customer has submitted an application for that particular home finance transaction.

- 5.3.2 G
- (1) The purpose of MCOB 5.3.1 R, taken in conjunction with other rules in this chapter, is to ensure that the customer has received details of the particular home finance transaction for which he has applied, and has had the opportunity to satisfy himself that it is appropriate for him.
 - (2) In relation to a regulated mortgage contract, the application should identify the type of interest rate, rate of interest, and the mortgage lender at the point it is submitted by the customer (for how to describe interest rates see MCOB 5.6.26 R and MCOB 5.6.27 R).

		<div>5.4</div> <div>Information on regulated mortgage contracts: general</div>	
5.4.1	R	[deleted]	
		Accuracy	
5.4.2	R	[deleted]	
5.4.3	R	A <i>mortgage intermediary</i> must take reasonable steps to ensure that an <i>illustration</i> which it issues, or which is issued on its behalf, other than that provided by a <i>mortgage lender</i> is accurate	
5.4.4	G	[deleted]	
5.4.5	G	[deleted]	
5.4.6	G	It is the responsibility of a <i>mortgage intermediary</i> to ensure compliance with ■ MCOB 5.4.3 R. However, where a <i>firm</i> can show that it was reasonable for it to rely on information provided to it by another <i>person</i> , other than the <i>mortgage lender</i> , that an <i>illustration</i> was accurate, it may be able to rely on ■ MCOB 2.5.2 R, if this turns out not to be the case.	
5.4.7	G	[deleted]	
		Illustrations where customer ineligible	
5.4.8	R	A <i>firm</i> must not issue an <i>illustration</i> to a <i>customer</i> for a <i>regulated mortgage contract</i> for which the <i>customer</i> is clearly ineligible on the basis of the information that the <i>firm</i> has obtained from the <i>customer</i> or the <i>mortgage lender's</i> lending criteria.	
5.4.9	G	The purpose of ■ MCOB 5.4.8 R is not to require a <i>firm</i> to ascertain whether a <i>customer</i> is eligible for a particular <i>regulated mortgage contract</i> before providing an <i>illustration</i> . Instead, the purpose is to ensure that the <i>firm</i> takes into account the information it has obtained from the <i>customer</i> before providing an <i>illustration</i> to the <i>customer</i> .	

Explaining the importance of an illustration

- 5.4.10

R

In providing an *illustration* to a *customer*, a *firm* must explain to the *customer* the importance of reading the *illustration* and understanding it.
- 5.4.11

G

A *firm* may satisfy ■ MCOB 5.4.10 R by drawing the *customer's* attention orally to the importance of reading and understanding the *illustration*, for example in a face-to-face meeting, or by referring to its importance in a covering letter or electronic communication or other written information that accompanies the *illustration*.

		Form of an illustration
5.4.12	R	Any <i>illustration</i> provided to a <i>customer</i> by a <i>firm</i> must be in a <i>durable medium</i> .
		Provision of information
5.4.13	R	[deleted]
5.4.13A	G	When providing information on <i>regulated mortgage contracts</i> , <i>firms</i> should bear in mind that the information must be given in accordance with ■ MCOB 2.5A.1 R (The customer's best interests).
5.4.14	R	[deleted]
5.4.15	R	[deleted]
5.4.16	G	■ MCOB 5 places no restrictions on the provision of information that is not specific to the amount the <i>customer</i> wants to borrow, for example, marketing literature including generic mortgage repayment tables or graphs illustrating the benefits of making a regular overpayment on a flexible mortgage. Such literature may, however, constitute a <i>financial promotion</i> and be subject to the provisions of ■ MCOB 3A (Financial promotions and communications with customers).
5.4.17	G	[deleted]
5.4.18	R	[deleted]
		Messages to be given when providing information on regulated mortgage contracts
5.4.18A	R	<p>(1) Whenever a <i>firm</i> provides a <i>customer</i> with information specific to the amount that the <i>customer</i> wants to borrow on a particular <i>regulated mortgage contract</i> following an assessment of the <i>customer's</i> needs and circumstances in order to comply with ■ MCOB 4.7A.2 R, it must give, clearly and prominently, the following information:</p> <ul style="list-style-type: none"> (a) the same information on the <i>firm's</i> product range as is required by ■ MCOB 4.4A.1R (1), ■ MCOB 4.4A.2 R and ■ MCOB 4.4A.4R (1); and (b) that the <i>customer</i> has the right to request an <i>illustration</i> for any <i>regulated mortgage contract</i> which the <i>firm</i> is able to offer the <i>customer</i>. <p>(2) A <i>firm</i> need not give the information in (1) if it has previously given that information in compliance with this <i>rule</i> within the last ten <i>business days</i>.</p>

Message to be given when customer requests an execution-only sale

5.4.18B R

- (1) Whenever, as part of an *execution-only sale* (or potential *execution-only sale*), a *customer* provides a *firm* with the information in ■ MCOB 4.8A.14R (1), ■ (2) or ■ (3) the *firm* must inform the *customer*, clearly and prominently, that the *customer* has the right to request an *illustration* for any *regulated mortgage contract* which the *firm* is able to offer the *customer*.
- (2) Whenever, as part of an *execution-only sale* (or potential *execution-only sale*), a *high net worth mortgage customer* or *customer* who would be entering into a *regulated mortgage contract* solely for a business purpose is provided with information specific to the amount that the *customer* wants to borrow on a particular *regulated mortgage contract*, the *firm* must inform the *customer*, clearly and prominently, that the *customer* has the right to request an *illustration* for any *regulated mortgage contract* which the *firm* is able to offer the *customer*.
- (3) A *firm* need not give the information in (1) and (2) if it has previously given that information in compliance with this *rule* within the last ten *business days*.

Guidance relevant to messages given to customer

5.4.18C G

- (1) In order to demonstrate compliance with ■ MCOB 5.4.18AR (1), a *firm* may wish to consider, for example, doing one or more of the following: give the messages to the *customer* in a durable medium; build the requirements into the *firm's* training of staff, as evidenced by its training and compliance manuals; insert appropriate prompts into paper-based or automated sales systems; have procedures in place to monitor compliance by its staff with that *rule*. What is required in each case will depend on all the circumstances.
- (2) The reference in the template *illustration* at ■ MCOB 5 Annex 1 R to the possibility of obtaining other *illustrations* is not sufficient to comply with the obligations in ■ MCOB 5.4.18AR (1)(b) and ■ MCOB 5.4.18B R. A *firm* may, however, satisfy those obligations in a number of ways; for example, by drawing the *customer's* attention to the right to request an *illustration* orally in a face-to-face meeting, or by referring to it in a letter or electronic communication or other written information.

Record keeping

5.4.19 R

A *firm* must make an adequate record of each *illustration* that it issues to a *customer* in accordance with ■ MCOB 5.5.1 R where the *customer* applies for that particular *regulated mortgage contract*.

5.4.20 R

The record required by ■ MCOB 5.4.19 R must be retained for a year from the date of the application made by the *customer*.

5.4.21 G

■ MCOB 5.4.19 R does not require a *firm* to keep records of *illustrations* that are issued to a *customer* where the *customer* does not apply to enter into that particular *regulated mortgage contract*.

5.4.22 **G** The record maintained in accordance with ■ MCOB 5.4.19 R should contain or refer to matters such as:

- (1) the date on which the *illustration* was provided to the *customer*;
- (2) the date of the application made by the *customer*; and
- (3) details of the medium through which the *illustration* was provided.

Tied products

5.4.23 **R** Where the *illustration* provided to the *customer* does not contain an accurate quotation or a reasonable estimate of the payments the *customer* will need to make in connection with any *tied product* that the *customer* must take out with the *regulated mortgage contract*, and the *customer* applies for that *regulated mortgage contract*:

- (1) the *firm* must provide the *customer* with an accurate quotation as soon as possible after he has applied, and in good time before the *offer document* is provided;
- (2) the *customer* has a right to withdraw his application for the *regulated mortgage contract* for a period of seven days from receipt of the quotation referred to in (1);
- (3) the quotation for the *tied product* must be accompanied by a notice explaining that the *customer* can withdraw his application and receive a full refund of any fees paid in connection with the application for that *regulated mortgage contract* (excluding any fees paid in respect of the *regulated activity* of *arranging* or *advising* on a regulated mortgage contract by a *mortgage lender* or a *mortgage intermediary*) for a period of seven days from receipt of the quotation or acceptance of the *mortgage lender's* offer if sooner; and
- (4) the *firm* must refund any fees paid by the *customer* (excluding any fees paid in respect of any advice provided by a *mortgage lender* or a *mortgage intermediary*) if the *customer* decides to exercise his right to withdraw his application in accordance with (2).

5.4.24 **G** The rules on the content of an *illustration* at ■ MCOB 5.6 (Content of illustrations) mean that if the *regulated mortgage contract* requires the *customer* to take out a *tied product*, the *illustration* must include an accurate quotation or a reasonable estimate of the payments the *customer* would need to make for the *tied product* (see ■ MCOB 5.6.52 R (2) where the *tied product* is a *repayment strategy* and ■ MCOB 5.6.74 R where the *tied product* is insurance). If it is not possible to include this cost information in the *illustration*, ■ MCOB 5.4.23 R requires that the *customer* be provided with an accurate quotation of the payments associated with the *tied product* as soon as possible. If the quotation is provided after the *customer* has applied for the *regulated mortgage contract* the *customer* has the right to a refund of fees if he withdraws his application.

Retirement interest-only mortgages

5.4.25 **R** When a *firm* issues an *illustration* for a *retirement interest-only mortgage* that will be used to release capital, the *firm* must inform the *customer* that

taking out the mortgage may affect the *customer's* tax position and entitlement to benefits, and that the *customer* should consider taking advice on these issues before applying.

5.4.26 **R** If the terms of the *retirement interest-only mortgage* include any restrictions as to who may live in the property, these restrictions must be disclosed to the *customer* before an application is made.

5.4.27 **G** The information referred to in ■ MCOB 5.4.25R and ■ MCOB 5.4.26R may be given to the *customer* either in the *illustration* or in a separate document provided at the same time as the *illustration*.

5.5 Provision of illustrations

Timing

5.5.1

R

- (1) A *firm* must provide the *customer* with an *illustration* for a *regulated mortgage contract* before the *customer* submits an application for that particular *regulated mortgage contract* to a *mortgage lender*, unless an *illustration* for that particular *regulated mortgage contract* has already been provided.
- (2) Except in the circumstances in ■ MCOB 5.5.1A R, a *firm* must provide the *customer* with an *illustration* for a *regulated mortgage contract* when any of the following occurs, unless an *illustration* for that *regulated mortgage contract* has already been provided:
 - (a) the *firm* advises the particular *customer* to enter into that *regulated mortgage contract*, in which case an *illustration* must be provided at the point the advice is given, unless the advice is given by telephone, in which case the *firm* must provide an *illustration* within 5 *business days*; or
 - (b) [deleted]
 - (c) [deleted]
 - (d) the *customer* requests an *illustration* for that *regulated mortgage contract*, unless the *firm* is aware that it is unable to offer that *regulated mortgage contract* to him; or
 - (e) as part of an *execution-only sale* (or potential *execution-only sale*) the *customer* has provided the *firm* with the information in ■ MCOB 4.8A.14R (1) to ■ MCOB 4.8A.14R (3) to indicate which *regulated mortgage contract* he wishes to enter into; or
 - (f) as part of an *execution-only sale* (or potential *execution-only sale*), a *high net worth mortgage customer* or a *customer* who is entering into the *regulated mortgage contract* solely for a business purpose, has indicated his intention to submit an application for that *regulated mortgage contract*.
- (3) Subject to ■ MCOB 5.5.4 R, the *firm* may comply with (1) and (2) by providing an *offer document* containing an *illustration*, if this can be done as quickly as providing an *illustration*.

5.5.1A

R

A *firm* need not provide an *illustration*:

- (1) in relation to a *direct deal*;

		<p>(2) if the <i>customer</i> refuses to disclose key information (for example, in a telephone conversation, his name or a communication address) or where the <i>customer</i> is not interested in pursuing the enquiry; or</p> <p>(3) if the <i>firm</i> does not wish to do business with the <i>customer</i>.</p>
5.5.1B	R	If the <i>firm</i> chooses not to give an <i>illustration</i> in the circumstances set out in ■ MCOB 5.5.1AR (1), where it has given advice on a <i>direct deal</i> , the firm must give the <i>customer</i> a written record of the advice.
5.5.1C	R	If, notwithstanding ■ MCOB 5.5.1AR (1), a <i>firm</i> chooses to give an <i>illustration</i> in relation to a <i>direct deal</i> , it remains subject to MCOB 3A.2.1R(2) (fair, clear and not misleading communications).
5.5.1D	G	[deleted]
5.5.1E	G	In the circumstances in ■ MCOB 5.5.1AR (2), the <i>rule</i> in ■ MCOB 5.5.1 R(1) will mean that the <i>customer</i> may not make an application for a <i>regulated mortgage contract</i> as an <i>illustration</i> has not been provided.
5.5.2	G	The effect of the requirements at ■ MCOB 5.3.1 R and ■ MCOB 5.5.1 R(1) is that if a <i>customer's</i> application to enter into a <i>regulated mortgage contract</i> with a <i>mortgage lender</i> , made via a <i>mortgage intermediary</i> , is subsequently passed by that <i>mortgage intermediary</i> to another <i>mortgage lender</i> , then the <i>mortgage intermediary</i> must ensure that the application is amended and the <i>customer</i> is provided with an <i>illustration</i> for the other <i>mortgage lender's regulated mortgage contract</i> before the application is passed to the other <i>mortgage lender</i> .
5.5.3	G	If a <i>firm</i> chooses to issue an <i>offer document</i> in place of an <i>illustration</i> in accordance with ■ MCOB 5.5.1 R(3), it will need to comply with ■ MCOB 6.4 (Content of the offer document), and in particular with ■ MCOB 6.6 (Offer documents in place of illustrations).
5.5.4	R	A <i>firm</i> must not undertake any action that commits the <i>customer</i> to an application (including accepting product-related fees in relation to the <i>regulated mortgage contract</i> concerned) until the <i>customer</i> has had the opportunity to consider an <i>illustration</i> .
5.5.5	G	The effect of the requirements at ■ MCOB 5.5.1 R(1) and ■ MCOB 5.5.4 R is that a <i>customer</i> will be deemed to be committed to an application if, for example, he pays a product related fee (including a valuation fee) or provides electronic or verbal authority to process an application. It is not necessary for a <i>customer</i> to provide a <i>mortgage lender</i> with a completed application form to submit an application for a <i>regulated mortgage contract</i> .
5.5.6	G	[deleted]

- 5.5.7** **R** The *firm* dealing directly with the *customer* is responsible for ensuring compliance with the content and timing requirements, that is, a *mortgage lender* is not responsible for ensuring that a *customer* has received an *illustration* before accepting an application from a *mortgage intermediary*.
- 5.5.8** **R** Where a *firm* has already provided an *illustration* in accordance with ■ **MCOB 5.5.1 R** and the terms for the proposed *regulated mortgage contract* are subsequently materially altered, the *firm* must ensure that the *customer* is provided with a revised *illustration*, before acting on the amendment, when the change occurs at the point at which a *customer* submits an application for the *regulated mortgage contract*.
- 5.5.9** **G** What constitutes 'materially altered' requires consideration of the facts of each individual case. For example, a change of product such that the underlying terms and conditions of the *regulated mortgage contract* have changed should normally be regarded as material, as would an additional charge, such as a *higher lending charge*, applying to the *regulated mortgage contract* when it did not previously.
- 5.5.10** **G** Unless the *customer* requests a revised *illustration*, a *firm* is not required to provide one if the *customer* has already submitted an application, and an amendment is made subsequently. The *mortgage lender* should however ensure that any amendment is reflected in the *offer document*.
- Uncertainty whether a mortgage is regulated**
- 5.5.11** **R**
- (1) If, at the point an *illustration* must be provided in accordance with ■ **MCOB 5.5.1 R**, a *firm* is uncertain whether the contract will be a *regulated mortgage contract*, the *firm* must:
 - (a) provide an *illustration*; or
 - (b) seek to obtain from the *customer* information that will enable the *firm* to ascertain whether the contract will be a *regulated mortgage contract*.
 - (2) Where (1)(b) applies, an *illustration* must be provided, unless, on the basis of the information the *customer* provides, the *firm* has reasonable evidence that the contract is not a *regulated mortgage contract*.
- 5.5.12** **G** If the *firm* has reasonable evidence that the contract is not a *regulated mortgage contract* and has not provided an *illustration* before a *customer* submits an application, and it is subsequently found that the contract is a *regulated mortgage contract*, there is no requirement to provide a separate *illustration* at that stage. However, the requirement to integrate an *illustration* into the *offer document* at ■ **MCOB 6.4.1 R** will apply.
- 5.5.13** **R** [deleted]

Providing an illustration without delay in response to a customer request

- 5.5.14** **G** Where the *customer* requests an *illustration* for a particular *regulated mortgage contract* (see ■ MCOB 5.5.1 R (2)(d)), the purpose of ■ MCOB 5.5.15 R, ■ MCOB 5.5.16 R and ■ MCOB 5.5.17 G is to ensure that the *customer* receives an *illustration* without unnecessary delay. These requirements do not restrict the information that the *firm* may obtain from the *customer* after it has provided the *customer* with an *illustration*.
- 5.5.15** **R** In meeting a request for an *illustration* in accordance with ■ MCOB 5.5.1 R (2)(d), the *firm* must not delay the provision of the *illustration* by requesting information other than:
- (1) the information necessary to personalise the *illustration* in accordance with ■ MCOB 5.6.6 R, if the *firm* does not already know it;
 - (2) where the *firm* acts in accordance with ■ MCOB 5.5.11 R(2), such information as is necessary to ascertain whether or not the contract will be a *regulated mortgage contract*;
 - (3) where the *regulated mortgage contract* involves any *linked deposits* and the *firm* chooses to provide an example in the *illustration* in accordance with ■ MCOB 5.6.109 R(2) or ■ MCOB 5.6.110 R(2), or both, such information as is necessary to produce the example;
 - (4) where the interest rates, payments or any other terms and conditions to be included in the *illustration* are dependent on the *customer's* credit record, such information as is necessary to produce an *illustration*;
 - (5) where the *firm* includes a quotation for any *tied products* or compulsory insurance in the *illustration*, such information as is necessary to produce those quotations;
 - (6) where the *customer* agrees to receive a quotation for insurance in the *illustration* (other than that provided for in (5)), such information as is necessary to produce those quotations; and
 - (7) any of the following information where it affects the availability of the *regulated mortgage contract* that the *customer* has requested information on or affects the information to be included in the *illustration*:
 - (a) whether the *customer* is a first-time buyer, a subsequent buyer moving home or entering into a *regulated mortgage contract* without moving home;
 - (b) whether the *regulated mortgage contract* is required for a right-to-buy purchase or for a shared ownership purchase;
 - (c) [deleted]
 - (d) the location of the property to be purchased, where known; and
 - (e) whether the terms are dependent on a third party guarantee.

- 5.5.16** **R** Where **■** MCOB 5.5.15 R(4) applies:
- (1) a *firm* must ask the *customer* relevant questions about his credit history or obtain information on his credit record from a credit reference agency;
 - (2) a credit reference agency must not be used unless:
 - (a) it would be quicker than asking the *customer* the relevant questions about his credit history; or
 - (b) the *customer* is not able to provide sufficient information on his credit history.
- 5.5.17** **G** A *firm* may use information that it already holds on the *customer* for the purpose of producing the *illustration* (for example, if it already holds the *customer's* credit record), providing the use of this information does not delay the *customer* receiving the *illustration* and the *customer's* consent is obtained where appropriate.
- 5.5.18** **R** If, on the basis of the information obtained from the *customer* or on the basis of information that the *firm* already holds on the *customer*, the *firm* would do business with the *customer*, but not on the terms requested, the *firm* may provide the *customer* with an *illustration* in respect of a different *regulated mortgage contract* if it chooses to do so.



5.6 Content of illustrations

Purpose

5.6.1 **G** ■ MCOB 5.6 sets out the required content of an *illustration* provided to a customer by a firm.

Content, order, format etc

5.6.2 **R** An *illustration* provided to a customer must:

- (1) contain the material set out in ■ MCOB 5 Annex 1 in the order and using the numbered section headings, sub-headings and prescribed text in ■ MCOB 5 Annex 1, except where provided for in ■ MCOB 5.6;
- (2) follow the layout of the template in ■ MCOB 5 Annex 1 with:
 - (a) prominent use of the Key facts logo followed by the text 'about this mortgage';
 - (b) each section clearly separated;
 - (c) all the amounts to be paid in Sections 5, 6, 8 and 9 in columns that make the amounts of the payments clear; and
 - (d) no section split across different pages except where it is impractical not to do so;
- (3) use font sizes and typefaces consistently throughout the *illustration* which are sufficiently legible so that the *illustration* can be read easily by a typical customer;
- (4) ensure that the information within each section is clearly laid out (for example, through the use of bullet points or similar devices to separate information);
- (5) include prominent headings with the numbered section headings clearly differentiated in some way from the other text in the *illustration* (for example, through the use of larger and more prominent fonts, the use of shading or colour);
- (6) replace '[name of mortgage lender]' with the name of the mortgage lender providing the regulated mortgage contract: a trading name used by the mortgage lender may be stated, as long as the name of the mortgage lender is also disclosed in Section 4 of the *illustration* in accordance with ■ MCOB 5.6.25 R(1);
- (7) describe any *early repayment charge* as an 'early repayment charge' and not use any other expression to describe such charges; and

- (8) describe any *higher lending charge* as a 'higher lending charge' and not use any other expression to describe such charges.
- 5.6.3** **R** Section 13 in ■ MCOB 5 Annex 1 is required only where the *illustration* is provided to the *customer* by, or on behalf of, a *mortgage intermediary*. If this is not the case, Section 14 must be renumbered Section 13.
- 5.6.4** **G**
- (1) Further requirements regarding the use of the Key facts logo and the location of specimens are set out in ■ GEN 5.1 and ■ GEN 5 Annex 1 G.
 - (2) ■ MCOB 5.6.2 R(3) does not prevent the use of different fonts and typefaces for headings and risk warnings. Its purpose is to prevent particular sections of the *illustration* from being made less prominent than other sections through the inconsistent use of font sizes and typefaces.
 - (3) The *illustration* can contain the *mortgage lender's* or mortgage intermediary's logo and other 'brand' information, so long as the requirements of ■ MCOB 5.6 are satisfied.
 - (4) The *illustration* can contain page numbers and other references that aid understanding, record keeping and identification of a particular *illustration*, such as the date and time an *illustration* is produced or a unique reference number, provided these do not detract from the content of the *illustration*.
 - (5) *Firms* are reminded of their general obligation for communications to *customers* to be clear, fair and not misleading. Sections of the *illustration* may be split across pages where it is practical to do so. When splitting sections, *firms* should split the section at an appropriate place, for example at the end of a sub-section, and not split tables or risk warnings.
- Content: required information**.....
- 5.6.5** **R** The *illustration* provided to *customers* must:
- (1) contain only the material prescribed in ■ MCOB 5.6 and no other material except where provided for elsewhere in ■ MCOB 5; and
 - (2) be in a document separate from any other material that is provided to the *customer*.
- 5.6.6** **R** As a minimum the *illustration* must be personalised to reflect the following requirements of the *customer*:
- (1) the specific *regulated mortgage contract* in which the *customer* is interested;
 - (2) the amount of the loan required;
 - (3) the price or value of the property on which the *regulated mortgage contract* would be secured (estimated where necessary);

- (4) the term of the *regulated mortgage contract*. If the customer is unable to suggest a date at which they expect to repay the loan, the *firm* must assume a term and state that assumption, as follows:
- (a) for a *retirement interest-only mortgage*, the *firm's* reasonable estimate;
 - (b) in any other case (for example in the case of an open-ended *bridging loan*, secured overdraft or *mortgage credit card*), a term of 12 months; and
- (5) whether the *regulated mortgage contract* is to be an *interest-only mortgage* or a *repayment mortgage* or a combination of the two.
- 5.6.7** G A *firm* should not illustrate more than one *regulated mortgage contract* in the same *illustration*, for example by using one *illustration* to compare alternative products, repayment methods or repayment terms.
- 5.6.8** G In relation to ■ MCOB 5.6.6 R(3), for the *firm* to comply with the principle of 'fair, clear and not misleading' in MCOB 3A.2.1R(1), an estimated valuation, where the estimated valuation is not that provided by the *customer*, must be a reasonable assessment based on all the facts available at the time. For example, an overstated valuation could enable a more attractive *regulated mortgage contract* to be illustrated on the basis of a lower ratio of the loan amount to the property value - for example, one with a lower rate of interest, or without a *higher lending charge*.
- 5.6.9** R The amount referred to in ■ MCOB 5.6.6 R(2) is:
- (1) in cases where on the basis of the information obtained from the *customer* before providing the *illustration* it is clear that the *customer* would not be eligible to borrow the amount he requested, an estimate of the amount that the *customer* could borrow based on the information obtained from the *customer*; or
 - (2) where the *regulated mortgage contract* is a revolving credit agreement such as a secured overdraft or *mortgage credit card*:
 - (a) (if it provides for an initial drawdown and *linked borrowing* facilities that would allow the *customer* to increase the amount of the loan without any further approval from the *mortgage lender*) the amount of the initial drawdown; or
 - (b) (in all other cases) the total borrowing that the *firm* is willing to provide under the *regulated mortgage contract*; or
 - (3) where it is known that the loan will be released in instalments, for example in the case of a self-build mortgage, the total amount of the loan required and not the amount of the initial instalment.
- 5.6.10** G *Firms* are reminded that they must comply with ■ MCOB 7.6.5 R in respect of the release of loan instalments after the start of the *regulated mortgage contract*.

- 5.6.11** **G** ■ MCOB 5.6.6 R sets out minimum requirements. The *illustration* may be personalised to a greater degree if the *mortgage lender* or *mortgage intermediary* wishes, subject to the restrictions on the information that can be obtained from the *customer* in ■ MCOB 5.5.15 R when the *illustration* is provided in accordance with ■ MCOB 5.5.1 R(2)(c).
- 5.6.12** **G** ■ MCOB 5.6.9 R(1) does not require information to be obtained from the *customer* before providing an *illustration* in order to ascertain the amount the *customer* is eligible to borrow. Instead, its purpose is to avoid a *firm* being in a position where it would otherwise have to provide a *customer* with an *illustration* for an amount it knew the *customer* would not be eligible for, based on whatever information it had obtained from the *customer* before providing the *illustration*.
- 5.6.13** **R** Where the *illustration* relates to a *regulated mortgage contract* that is subdivided into different parts with different types of interest rate or different rates of interest or different conditions, or a combination of these, the requirements in ■ MCOB 5.6 may be adapted to accommodate this. The adaptations made must be limited to those that are necessary.
- 5.6.14** **G**
- (1) ■ MCOB 5.6.13 R applies where, for example, the *illustration* covers a *regulated mortgage contract* that is:
 - (a) divided so that a certain amount of the loan is payable on a fixed interest rate, and a certain amount on a discounted interest rate; or
 - (b) a combination of a *repayment mortgage* and an *interest-only mortgage* and the loan is subdivided into different types of interest rate and/or different rates of interest.
 - (2) ■ MCOB 5.6.13 R does not apply where an *illustration* covers a *regulated mortgage contract* that is a combination of a *repayment mortgage* and an *interest-only mortgage* and the rate of interest charged, mortgage term and other conditions are the same. The treatment of such mortgages is covered in the relevant rules.
- 5.6.15** **R** **Information to be included at the head of the illustration**.....
At the head of the *illustration*, the following information must be included:
- (1) the *customer's* name;
 - (2) the date of issue of the *illustration*;
 - (3) details of how long the *illustration* is valid and whether there is any date by which the *regulated mortgage contract* covered by the *illustration* needs to commence (for example, where a fixed interest rate is only available if the *regulated mortgage contract* commences before a certain date); and
 - (4) the prescribed text at the head of the illustration in ■ MCOB 5 Annex 1.

Section 1: 'About this illustration'

- 5.6.16
- R
- Under the section heading 'About this illustration', the prescribed text in ■ MCOB 5 Annex 1 under this heading must be included.

Section 2: 'Which service are we providing you with?'

- 5.6.17
- R
- (1) Unless (2) applies, under the section heading 'Which service are we providing you with?' the prescribed text in ■ MCOB 5 Annex 1 under this heading must be included, with a 'check box' for each statement, one of which must be marked prominently to indicate the level of service provided to the *customer*.

(2) If the level of service described in the *illustration* is provided by another *firm*, (1) may be replaced by the following:Under the section heading 'Which service are we providing you with?' the following text should be presented as two options, with a 'check box' for each option, one of which must be marked prominently to indicate the level of service provided to the *customer*:'[name of *firm*] recommends, having assessed your needs, that you take out this mortgage.[name of *firm*] is not recommending a particular mortgage for you. However, based on your answers to some questions, it is giving you information about this mortgage so that you can make your own choice'.

Section 3: 'What you have told us'

- 5.6.18
- R
- (1) Under the section heading 'What you have told us', the *illustration* must state the information that has been obtained from the *customer* under ■ MCOB 5.6.6 R (apart from ■ MCOB 5.6.6 R(1) which is provided for in Section 4 of the *illustration*), and can include brief details of any other information that has been obtained from the *customer* and used to produce the *illustration*.

(2) If the amount on which the *illustration* is based includes the amount that the *customer* wants to borrow plus charges and other payments that have been added to the loan:

(a) except where (b) applies, this section must include the following text after the loan amount from ■ MCOB 5.6.6 R(2):'plus £[insert total amount of fees and other charges added to the loan] for fees that will be added to the loan - see Section 8 for details.'; or

(b) where there are other fees or charges that the *customer* must pay that have not been added to the loan, this section must include the following text after the loan amount from ■ MCOB 5.6.6 R(2):'plus £[insert total amount of fees and other charges added to the loan] for fees that will be added to the loan. These and the additional fees that you need to pay are shown in Section 8.'

(3) If the amount on which the *illustration* is based includes the amount that the *customer* wants to borrow plus insurance premiums or insurance-related charges (other than a *higher lending charge*) that have been added to the loan:

(a) except where (b) applies, this section must include the following text after the loan amount from ■ MCOB 5.6.6 R(2) (which may be combined with the prescribed text in (2) if applicable): 'plus £[insert amount of premium or charges, or both, to be added to

the loan] for insurance [premiums] [and] [charges] that will be added to the loan - see Section 9 for details.'; or

- (b) where there are other insurance premiums or insurance-related charges, or both, that the *customer* must pay that have not been added to the loan, this section must include the following text after the loan amount from ■ MCOB 5.6.6 R(2) (which may be combined with the prescribed text in (2) if applicable): 'plus £[insert amount of premium or charges, or both, to be added to the loan] for insurance [premiums] [and] [charges] that will be added to the loan. These and any additional insurance [premiums] [and] [charges] that you need to pay are shown in Section 9.'

- (4) If the amount on which the *illustration* is based does not involve any charges or payments being added to the amount to be borrowed, but there are charges that must be paid by the *customer*, Section 3 of the *illustration* must include the following text after the loan amount from ■ MCOB 5.6.6 R(2): 'No fees have been added to this amount but the fees you need to pay are shown in Section 8. For details of any insurance charges, see Section 9.'

- (5) If the *regulated mortgage contract* on which the *illustration* is based has no charges that must be paid by the *customer*, and no insurance premiums are being added to the loan, Section 3 of the *illustration* must include the following text after the loan amount from ■ MCOB 5.6.6 R(2):

'We do not charge any fees for this mortgage.'

5.6.19 **R** Where the same *illustration* covers a *regulated mortgage contract* that is a combination of a *repayment mortgage* and an *interest-only mortgage*, either:

- (1) Section 3 of the *illustration* must state the amount the *customer* wishes to borrow as a *repayment mortgage* and the amount required as an *interest-only mortgage*; or
- (2) Section 3 of the *illustration* must summarise the repayment method as partly an *interest-only mortgage* and partly a *repayment mortgage*, and Section 4 of the *illustration* must state the amount the *customer* wishes to borrow as a *repayment mortgage* and the amount required as an *interest-only mortgage*.

5.6.20 **R** Where the same *illustration* covers a *regulated mortgage contract* that has different parts of the loan over a different term (that is, the final repayment date of the loan parts are different), either:

- (1) Section 3 of the *illustration* must state the amount repayable over each term; or
- (2) Section 3 of the *illustration* must state the longest term that applies and Section 4 of the *illustration* must state the amount repayable over each term.

- 5.6.21

R

For the purpose of illustrating to the *customer* the repayment method in Section 3 or Section 4 of the *illustration*, or the cost of the *regulated mortgage contract* in Section 5 of the *illustration*, if the *illustration* covers a *regulated mortgage contract* that is a combination of more than one interest-only part on the same product terms but with different repayment dates, the *illustration* must either treat it as one part by assuming the longest term, or alternatively treat it as a multi-part loan.
- 5.6.22

R

At the end of Section 3 of the *illustration* a statement must be included making clear that changes to any of the information obtained from the *customer*, and where appropriate to the valuation of the property, could alter the details elsewhere in the *illustration*, and encouraging the *customer* to ask for a revised *illustration* in this event.
- 5.6.23

G

An example of the type of statement that would satisfy ■ MCOB 5.6.22 R is: 'The valuation that will be carried out on the property and changes to any of the information you have given us could alter the information in this illustration. If this is the case please ask for a revised illustration.'
- 5.6.24

G

The purpose of the *illustration* is to provide the *customer* with details of the cost of borrowing the amount required over the term specified in ■ MCOB 5.6.6 R(2) and ■ MCOB 5.6.6 R(4). Section 12 has been designed specifically to illustrate any additional features of the *regulated mortgage contract* such as a linked current account, a linked savings account or the availability of *unsecured lending*. These features should therefore be shown in section 12 and not in section 3 of the *illustration*.

Section 4: 'Description of this mortgage'

- 5.6.25

R

Under the section heading 'Description of this mortgage' the *illustration* must:

 - (1) state the name of the *mortgage lender* providing the *regulated mortgage contract* to which the *illustration* relates (a trading name used by the *mortgage lender* may also be stated in accordance with ■ MCOB 5.6.2 R(6)), and the name, if any, used to market the *regulated mortgage contract*;
 - (2)
 - (a) provide a description of the interest rate type and rate of interest that applies in accordance with the format described in ■ MCOB 5.6.26 R and ■ MCOB 5.6.27 R;
 - (b) where there is more than one interest rate type or rate of interest, specify the amount of the loan to which each interest rate type and rate of interest applies;
 - (c) unless the interest rate applies for the full term of the loan, confirm what interest rate will apply, when it will apply and for how long it will apply after any initial interest rate ends, in accordance with the format described in ■ MCOB 5.6.26 R and ■ MCOB 5.6.27 R; and
 - (d) provide a clear explanation of the charging approach where different interest rates are applied to different items of debt (for example, for a *mortgage credit card* where a different interest

rate applies to balances that are transferred from that charged on any additional borrowing);

- (3) where ■ MCOB 5.6.20 R(2) applies, state the different amounts repayable and the different terms over which the amounts are repayable;
- (4) where ■ MCOB 5.6.19 R(2) applies, state the amount repayable under an *interest-only mortgage* and the amount repayable under a *repayment mortgage*;
- (5) include the following text if the *regulated mortgage contract* meets the Government's mortgage CAT standards: 'This mortgage meets the Government's CAT standards.';
- (6) if the *customer* is obliged to buy any *tied products* or to take out a linked current account, a linked savings account or any *linked borrowing* under the *regulated mortgage contract*, include:
 - (a) details of the products required; and
 - (b) the following text: 'You are obliged to take out [insert details of the product(s)] through [insert name of *mortgage lender* or if relevant, name of *mortgage intermediary*] as a condition of this mortgage. Please refer to Section [insert applicable section number e.g. 6 or 9] of this illustration for further details.'
- (7) state very briefly any restrictions that apply to the availability of the *regulated mortgage contract* (for example, if it is only available to certain types of *customer* or for certain types of loan);
- (8) where the interest rate, payments or terms and conditions of the *regulated mortgage contract* in the *illustration* reflect a *customer's* adverse credit history, include the following text: 'The terms of this mortgage reflect past or present financial difficulties.'; and
- (9) where the intention of the *regulated mortgage contract* is solely to provide the *customer* with a *mortgage credit card* (rather than the *mortgage credit card* being an additional feature of a *regulated mortgage contract*) include the warning about the loss of statutory rights from ■ MCOB 5.6.102 R(2) in Section 4 of the *illustration* rather than Section 12.

5.6.26 **R** ■ MCOB 5.6.27 R sets out some examples of descriptions of interest rate types and rates of interest which must be used in the *illustration* to comply with ■ MCOB 5.6.25 R(2). If an interest rate is not described in ■ MCOB 5.6.27 R, it must be presented in the *illustration* in a way that is consistent with the descriptions in ■ MCOB 5.6.27 R.

5.6.27 **R** **Description of interest rate types and rates of interest. This table belongs to MCOB 5.6.26R:**

Description of the interest rate	Amount payable in each instalment
Lender's base mortgage rate - must be described as the [Lender]'s standard variable rate, currently X%, [where applicable insert the date at which the interest rate ends or period for which the interest rate applies].	Amount based on X%.
Fixed rate - must be described as a fixed rate of X% [where applicable insert the date at which the interest rate ends or the period for which the interest rate applies].	Amount based on the fixed rate of X%.
Discounted rate - must be described as a variable rate, currently X%, with a discount of Y% [where applicable insert the date at which the discount ends or the period for which the discount applies], giving a current rate payable of Z%.	Amount based on Z%.
Capped rate - must be described as a variable rate, currently X%, which will not go above a ceiling of Y% [where applicable insert the date at which the capped interest rate ends or the period for which the capped interest rate applies].	Amount based on the current interest rate payable (X%).
Capped and collared - must be described as a variable rate, currently X%, which will not go below a floor of Y%, or above a ceiling of Z% [where applicable insert the date at which the capped and collared interest rate ends or the period for which the capped and collared interest rate applies].	Amount based on the current interest rate payable (X%).
Tracker rate - must be described as a variable rate which is [X% above/X% below/the same as] [insert interest rate tracked, currently Z%,] [where applicable insert the date at which the rate ends or the period for which the interest rate applies], to give a current rate payable of Y%. Details should also be provided of how soon after an interest rate change the mortgage interest rate is adjusted.	Amount based on Y%.
Deferred rate - must be described as a variable rate, currently X%, where Y% is not paid now but is added to your mortgage [where applicable insert the date at which the deferred interest rate ends or the period for which the deferred interest rate applies], to give a current rate payable of Z%.	Amount based on Z%.
Stepped rate where different interest rates apply over different time periods (for example, fixed interest rate in year 1 changes in year 2). Each element should be dealt with individually as above.	Amount for each of the 'steps'.
Combinations of the above must be treated in the same way as the descriptions above, (for example, if a discounted interest rate has a 'floor' then it must be described as such).	Follow the above treatment depending on the combination.

5.6.28

R Where the loan under the *regulated mortgage contract* is divided into more than one part (for example where part of the loan is a fixed interest rate and part of the loan is a discounted variable interest rate) and the *firm* displays this in a tabular format in the *illustration*:

- (1) the following text must be used to introduce the table 'As this mortgage is made up of more than one part, these parts are summarised below:';
- (2) each part must be numbered for ease of reference in the *illustration*;
- (3) the 'initial rate payable' must be displayed separately from the interest rate description;
- (4) the loan amounts must be totalled; and
- (5) immediately following the table, a statement of what interest rates will apply to each part, (and when they will apply) after any initial interest rate ends in accordance with ■ MCOB 5.6.25 R(2)(c).

5.6.29 **R** Further information about the *regulated mortgage contract* may be included in Section 4 of the *illustration* as long as it does not significantly:

- (1) duplicate information contained elsewhere in the *illustration*; and
- (2) extend the length of this section.

5.6.30 **G** An example of further information that may be included in accordance with ■ MCOB 5.6.29 R might be that an 'approval in principle' has been granted subject to valuation and satisfactory credit reference.

Section 5: 'Overall cost of this mortgage'

5.6.31 **R** Under the section heading 'Overall cost of this mortgage' where the *regulated mortgage contract* has an agreed term for repayment and a regular payment plan (that is, it is not a revolving credit agreement such as a secured overdraft or *mortgage credit card*, or a *regulated mortgage contract* where all of the interest rolls up, such as an open-ended *bridging loan*):

- (1) the following text must be included in the *illustration*: 'The overall cost takes into account the payments in Sections 6 and 8 below.';
- (2) if all of the *regulated mortgage contract* to which the *illustration* relates is an *interest-only mortgage*, the following text must follow the text in (1): 'However, it excludes any payments that you may need to make into a separate savings plan, to build up a lump sum to repay the amount borrowed, but assumes that you pay off the amount borrowed as a lump sum at the end of the mortgage.';
- (3) where all of the *regulated mortgage contract* is a *repayment mortgage*, the following text must follow the text in (1): 'With a repayment mortgage you gradually pay off the amount you have borrowed, as well as the interest, over the life of the mortgage.';
- (4) if part of the *regulated mortgage contract* to which the *illustration* relates is an *interest-only mortgage*, and part is a *repayment mortgage*, the following text must follow the text in (1): 'However, it excludes any payments that you may need to make into a separate savings plan to build up a lump sum to repay the amount borrowed on an interest-only basis, but assumes that you pay off the amount

borrowed on an interest-only basis, as a lump sum at the end of the mortgage.'; and

- (5) reference must be made to any other payments that have been included in the *APR* but not included in Sections 6 and 8 of the *illustration* if these are relevant to the *regulated mortgage contract* that is the subject of the *illustration*.

5.6.32

R

Under the section heading 'Overall cost of this mortgage' where the *regulated mortgage contract* has no agreed term for repayment, (and a 12 month term has been assumed), or no regular payment plan, or both (for example, a revolving credit agreement such as a secured overdraft or *mortgage credit card* or a *regulated mortgage contract* where all the interest rolls up such as an open-ended *bridging loan*):

- (1) the following text must be included in the *illustration*: 'The overall cost takes into account the payments in Sections 6 and 8 below.';
- (2) where all the interest on the *regulated mortgage contract* rolls up and is repaid as a lump sum at the end of the *regulated mortgage contract*, for example a *bridging loan*, then the following text must follow the text in (1): 'It assumes that you pay back the total amount owing as a lump sum at the end of the mortgage term.';
- (3) where the *regulated mortgage contract* is a revolving credit agreement and no regular payments are made, for example a secured overdraft, then the following text must follow the text in (1): 'It assumes that you borrow the maximum amount available, and pay back the total amount owing, as a lump sum at the end of the mortgage term.';
- (4) where the *regulated mortgage contract* is a revolving credit agreement and regular minimum payments are made, for example, a *mortgage credit card*, then the following text must follow the text in (1): 'It assumes that you borrow the maximum amount available, make regular payments of the minimum amount, and pay back the remaining amount owing as a lump sum at the end of the mortgage term.'; and
- (5) reference must be made to any other payments that have been included in the *APR* but not included in Sections 6 and 8 of the *illustration* if these are relevant to the *regulated mortgage contract* that is the subject of the *illustration*.

5.6.33

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■ MCOB 5.6.31 R(5) and ■ MCOB 5.6.32 R(5) would require, for example, a reference to the fact that the overall cost takes into account mortgage payment protection insurance where this is required as a condition of the *regulated mortgage contract* to which the *illustration* relates. The requirement to take out such insurance must be stated in Sections 4 and 9 of the *illustration* in accordance with ■ MCOB 5.6.25 R(6), ■ MCOB 5.6.74 R or ■ MCOB 5.6.77 R.

5.6.34

R

The following text must be included after the text required by ■ MCOB 5.6.31 R or ■ MCOB 5.6.32 R with the relevant cost measures shown in

the right-hand column of Section 5 in accordance with the layout shown in ■ MCOB 5 Annex 1:

- (1) 'The total amount you must pay back, including the amount borrowed is £[insert *total amount payable*];'
- (2) 'This means you pay back £[insert the *total amount payable*] divided by the amount on which the *illustration* is based from ■ MCOB 5.6.6 R(2) plus all fees, charges and insurance premiums added to the loan in accordance with ■ MCOB 5.6.18 R(2) and ■ MCOB 5.6.18 R(3)] for every £1 borrowed'; and
- (3) 'The overall cost for comparison is [insert the *APR*] % APR'.

5.6.35

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- (1) The *APR* and the *total amount payable* in ■ MCOB 5.6.34 R must be calculated on the basis of information obtained from the *customer* under ■ MCOB 5.6.6 R.
- (2) Where there is a charge to be included in the *APR* and *total amount payable* and the precise amount of that charge is not known at the time that the *illustration* is provided, ■ MCOB 10.3 (Formula for calculating the *APR*) sets out a number of relevant assumptions to be used. If the method for including the charge is not addressed in MCOB 10 (Annual Percentage Rate), the charge must be estimated based on information which is known to be representative of the *regulated mortgage contract* to which the *illustration* relates.
- (3) [deleted]
- (4) Where the *regulated mortgage contract* is a revolving credit agreement and regular payments are made, for example, a *mortgage credit card*, then the *APR* and *total amount payable* must be based on the maximum amount that the *customer* could borrow and take into account any amounts that must be paid in regular instalments.

5.6.36

G

In relation to ■ MCOB 5.6.35 R(2), the cost of conveyancing would be an example of a charge for which representative information may need to be used in the calculation of the *APR* and the *total amount payable*.

5.6.37

R

At the end of Section 5 of the *illustration* the following text must be included:

- (1) unless the interest rate is fixed throughout the term of the *regulated mortgage contract*: 'The figures in this section will vary following interest rate changes and if you do not keep the mortgage for [insert term from ■ MCOB 5.6.6 R(4)].'; and
- (2) (a) where the *regulated mortgage contract* is a *repayment mortgage*: 'Only use the figures in this section to compare the cost with another repayment mortgage.'; or
 (b) where the *regulated mortgage contract* is an *interest-only mortgage*: 'Only use the figures in this section to compare the cost with another interest-only mortgage.'; or

(c) where the *regulated mortgage contract* is a combination of a *repayment mortgage* and an *interest-only mortgage*: 'Only use the figures in this section to compare the cost with another mortgage that has the same proportions of the loan on repayment and interest-only as this one.'

5.6.38 **G** The purpose of the *illustration* is to provide the *customer* with details of the cost of borrowing the amount required over the term specified from ■ MCOB 5.6.6 R(2) and ■ MCOB 5.6.6 R(4). Section 12 has been designed specifically to allow examples of the effect of any additional features of the *regulated mortgage contract* such as a linked current account or a linked savings account. Examples of these features should therefore be shown in Section 12 and not in Section 5 or Section 6 of the *illustration*.

Section 6: 'What you will need to pay each [insert frequency of payments from MCOB 5.6.40R]'

5.6.39 **R** ■ MCOB 5.6.40 R to ■ MCOB 5.6.57 G do not apply to loans without a term or regular payment plan where some or all of the interest rolls up, for example *bridging loans*, secured overdrafts or *mortgage credit cards*. In these cases, ■ MCOB 5.6.134 R to ■ MCOB 5.6.138 G apply.

5.6.40 **R** The heading for Section 6 of the *illustration* and the heading of the column on the right-hand side of this section must state the frequency with which payments must be made by the *customer*. (For example, if payments are to be made on a monthly basis, the heading for this section must be 'What you will need to pay each month' and the column must be headed 'Monthly payments'.)

5.6.41 **R** All the payments in Section 6 of the *illustration* must be calculated based on the frequency used for the purposes of the headings in ■ MCOB 5.6.40 R and must be shown in the column on the right-hand side of this section.

5.6.42 **R** Section 6 of the *illustration* must contain the following information:

- (1) the loan amount on which the *illustration* is based. This figure should include all fees, charges and insurance premiums that have been added to the loan in accordance with ■ MCOB 5.6.18 R(2) and ■ MCOB 5.6.18 R(3), and the following text must follow the loan amount: 'and include[s] the [fees] [and] [insurance premiums] that are shown in [Section 8] [and] [Section 9] as being added to your mortgage.'
- (2) the assumed start date that has been used in the *illustration* to estimate the number of payments to be charged at given interest rates;
- (3) except where ■ MCOB 5.6.54 R applies, for each of the interest rates charged on the *regulated mortgage contract*:
 - (a) the number of payments at that interest rate;
 - (b) whether the interest rate is fixed or variable;

- 5.6.43**

R

(c) the interest rate charged on the *regulated mortgage contract* at the time the *illustration* is issued; and

(d) the amount that the *customer* must pay in each instalment at that interest rate, which must be recorded in the right-hand column of this section (see ■ MCOB 5.6.48 R).
- 5.6.43**

R

Where the *illustration* covers a *regulated mortgage contract* that automatically converts from one repayment method to another after a specified period, then the *illustration* must show the effect of this change on the regular payment, in the same way as the requirements in ■ MCOB 5.6.42 R(3).
- 5.6.44**

G

If appropriate, the two statements required by ■ MCOB 5.6.42 R(1) and ■ MCOB 5.6.42 R(2) may be merged, for example 'These payments are based on a loan amount of £x and assume that the mortgage will start on [dd/mm/yy]'.
- 5.6.45**

G

■ MCOB 5.6.42 R(3) applies to each interest rate charged on the *regulated mortgage contract* covered by the *illustration*. This means that it applies to different interest rates charged at different times, for example, where the interest rate changes at the end of any initial discounted, fixed or other special interest rate period.
- 5.6.46**

R

The following information must be included in the description of the interest rate required by ■ MCOB 5.6.42 R(3)(c) except where ■ MCOB 5.6.54 R applies:

 - (1) where the interest rate can change, the word 'currently' must be used to illustrate the current interest rate payable; and
 - (2) where the interest rate changes after a given period the words 'followed by' must be used to indicate this.
- 5.6.47**

G

An example of how the information required by ■ MCOB 5.6.42 R(3) and ■ MCOB 5.6.46 R may be presented when there is an initial fixed interest rate for a period of 22 months followed by the *mortgage lender's* standard variable interest rate for a period of 278 months is as follows: '22 payments at a fixed rate of [...] % followed by 278 payments at a variable rate, currently [...] %'.
- 5.6.48**

R

The information required by ■ MCOB 5.6.42 R(3)(d) must exclude:

 - (1) the cost of repaying the capital if the *regulated mortgage contract* is an *interest-only mortgage*: where part of the *regulated mortgage contract* is an *interest-only mortgage*, the cost of repaying the capital must be excluded only for that part; and
 - (2) the cost of any products which may be sold in conjunction with the *regulated mortgage contract* (whether *tied products* or not), unless the cost has been added to the mortgage.

- 5.6.49** **R** If, because of the assumed start date of the *regulated mortgage contract*, the initial payment differs from the subsequent payments, the initial payment must be shown in this section in accordance with ■ MCOB 5.6.42 R(3)(d).
- 5.6.50** **R** Where the *illustration* covers a *regulated mortgage contract* that is a combination of a *repayment mortgage* and an *interest-only mortgage*, the payment amounts in ■ MCOB 5.6.42 R(3)(d) must be the combination of the amount to be paid on the *repayment mortgage* and the amount to be paid on the *interest-only mortgage*, unless ■ MCOB 5.6.13 R or ■ MCOB 5.6.54 R apply in which case they must be stated separately.
- 5.6.51** **R** Where the interest is deferred on the *regulated mortgage contract*, the following text must be included under the information on the deferred interest rate included in the *illustration* in accordance with ■ MCOB 5.6.42 R(3): "The interest deferred will be added to your mortgage. The table at Section [insert 6a or 6b if ■ MCOB 5.6.55 R applies] of this illustration shows how this will affect the amount you owe."
- 5.6.52** **R** Where all or part of the *regulated mortgage contract* to which the *illustration* relates is an *interest-only mortgage*:
- (1) the *illustration* must include the sub-heading 'Cost of repaying the capital' with the following text under it: 'You will still owe [insert amount of loan on an interest-only basis] at the end of the mortgage term. You will need to make separate arrangements to repay this. When comparing the payments on this mortgage with a repayment mortgage, remember to add any money that you may need to pay into a separate savings plan to build up a lump sum to repay this amount.';
 - (2) if the *regulated mortgage contract* requires the *customer* to take out a *tied product* as a *repayment strategy* either through the *mortgage lender* or *mortgage intermediary* then:
 - (a) include a sub-heading 'Savings plan that you must take out through [insert name of *mortgage lender* or *mortgage intermediary*]';
 - (b) include an accurate quotation or a reasonable estimate of the payments the *customer* will need to make for that *tied product*; and
 - (c) if a quotation cannot be provided under (b), state that a quotation is not available at present, that a quotation will be provided as soon as possible and that in the event that this is provided after an application is made, and is found to be unacceptable to the *customer*, that the application may be cancelled with a full refund of all fees (in accordance with ■ MCOB 5.4.23 R(3)).
 - (3) if the *illustration* includes a quotation for the payments that would need to be made by the *customer* for the *repayment strategy*:
 - (a) unless (2) applies, the *illustration* must include the sub-heading 'Savings plan that you do not have to take out through [insert name of *mortgage lender* or *mortgage intermediary*]';

- (b) the *illustration* must provide a brief description only of the type of *repayment strategy* illustrated (full details of the *repayment strategy* may be provided separately);
 - (c) the quotation must be based on the frequency of payments in ■ MCOB 5.6.40 R and must be included in the column for payments alongside the description required by (b); and
 - (d) the *illustration* must refer the *customer* to the individual product disclosure documentation required by the Conduct of Business sourcebook (COBS).
- (4) if a quotation for the *repayment strategy* is not provided in the *illustration*, the *illustration* must include a '£' sign in the column for payments alongside the following text, which follows the text in (1): 'When you have found out what payments you need to make into a savings plan you may find it helpful to add these to your mortgage payments and put the total payment in the column opposite.';
- (5) unless ■ MCOB 5.6.55 R applies, if a quotation for the *repayment strategy* has been included in the *illustration*, Section 6 must be extended to illustrate the monthly cost inclusive of the savings plan and must have the sub-heading 'What you will need to pay each [insert frequency of payments from ■ MCOB 5.6.40 R] including the cost of a savings plan to repay the capital' and must include:
- (a) the information required by ■ MCOB 5.6.42 R(3) for each interest rate charged on the *regulated mortgage contract*; and
 - (b) the sum of what the *customer* would need to pay in each instalment for the *regulated mortgage contract* and for the *repayment strategy* in the payments column. For example if payments are made monthly, this would be the amount that the *customer* would need to pay each month for the *regulated mortgage contract* and *therepayment strategy*. Where different interest rates are charged on the *regulated mortgage contract* the amount payable in each instalment at each interest rate must be shown in the payments column.

5.6.53

G

An example of how the information required by ■ MCOB 5.6.52 R (1), ■ MCOB 5.6.52 R (3) and ■ MCOB 5.6.52 R (5) may be presented is as follows:

Cost of repaying the capital You will still owe £Z at the end of the mortgage term. You will need to make separate arrangements to repay this. When comparing the payments on this mortgage with a repayment mortgage, remember to add any money that you may need to pay into a separate savings plan to build up a lump sum to repay this amount.	
Savings plan that you do not have to take out through [insert name of mortgage lender or mortgage intermediary]	Monthly payments
XYZ savings plan (see separate product disclosure document)	£C
What you will need to pay each month including the cost of a savings plan to repay the capital	
36 payments at a fixed rate currently x% followed by:	£(A+C)
264 payments at a variable rate currently y%.	£(B+C)

Multi-part mortgages

5.6.54

R

Where the loan under the *regulated mortgage contract* is divided into more than one part (for example, where part of the loan is on a fixed interest rate and part on a discounted variable interest rate) and the *firm* displays the initial cost of all parts, and the total cost, in a tabular format in the *illustration*, ■ MCOB 5.6.42 R(3) and ■ MCOB 5.6.46 R do not apply; instead:

- (1) each part must be numbered for ease of reference in the *illustration*;
- (2) the loan amounts must be totalled;
- (3) the number and frequency of each payment must be stated;
- (4) the repayment method for each part must be stated;
- (5) the 'initial interest rate payable' for each part must be stated ;
- (6) whether the interest rate payable is fixed or variable for each part must be stated; and
- (7) the regular payment for each part must be stated and the total payment for all parts highlighted (excluding the information listed in ■ MCOB 5.6.48 R).

5.6.55

R

Unless all of the interest rates described in ■ MCOB 5.6.54 R(5) apply for the term of the loan part to which they apply, then an additional section numbered as 6a and titled 'What you will need to pay in future' must be included to indicate the future stepped payments (if ■ MCOB 5.6.51 R also applies then the section on deferred interest must be numbered 6b). This section must:

- (1) state when a change in payment will occur;
- (2) state the reason for the change in payment; and
- (3) confirm that the payment illustrated assumes interest rates will not change.

5.6.56

R

Where ■ MCOB 5.6.55 R applies and part of the *regulated mortgage contract* is an *interest-only mortgage*:

- (1) if a quotation for the *repayment strategy* has been included in the *illustration* in accordance with ■ MCOB 5.6.52 R(3) then ■ MCOB 5.6.52 R(5) does not apply.
- (2) a statement is required to indicate that these payments do not include the cost of any savings plan.

5.6.57

G

An example of a statement which would meet the requirements of ■ MCOB 5.6.56 R(2) would be 'Remember to add the cost of any savings plan to these monthly payments'.

Section 7: 'Are you comfortable with the risks?'

5.6.58

R

■ MCOB 5.6.59 R to ■ MCOB 5.6.65 R do not apply to loans without a term or regular repayment plan where some or all of the interest rolls up, for example, *bridging loans*, secured overdrafts or *mortgage credit cards*. In these cases ■ MCOB 5.6.140 R to ■ MCOB 5.6.145 R apply.

5.6.59

R

Under the section heading 'Are you comfortable with the risks?':

- (1) under the sub-heading 'What if interest rates go up?' the *illustration* must include the following:
 - (a) if the interest rate is fixed throughout the term of the *regulated mortgage contract*, an explanation that the payments will not vary because the interest rate is fixed;
 - (b) if the interest rate is fixed for part of the term of the *regulated mortgage contract*, an explanation of when or how increases in the interest rate charged on the *regulated mortgage contract* affect the *customer's* payments;
 - (c) if the interest rate cannot go above a certain level or below a certain level, or both, and this applies throughout the term of the *regulated mortgage contract*, an explanation that this is the case;
 - (d) if the interest rate cannot go above or below a certain level for part of the term of the *regulated mortgage contract*, an explanation that this is the case and of when or how increases in the interest rate charged on the *regulated mortgage contract* affect the *customer's* payments;
 - (e) (i) if (c) or (d) apply, the maximum or minimum interest rate, or both, and the payments at each of these interest rates; and
 - (ii) where a *repayment strategy* has been included in the *illustration* in accordance with ■ MCOB 5.6.52 R(3), the payments quoted in (i) must include the cost of the *repayment strategy* and state that this is the case;
 - (f) if the *regulated mortgage contract* is made up of a number of different parts including different types of interest rate and different rates of interest, an explanation of when or how increases in the interest rate charged on the *regulated mortgage contract* affect the *customer's* payments for each part (or combination of parts);
 - (g) except where (2)(a) or (2)(b) apply, the following text: 'The [frequency of payments from ■ MCOB 5.6.40 R] payments shown in this illustration could be considerably different if interest rates change. For example, for one percentage point increase in [describe the interest rate that applies], your [insert frequency of payments] payment will increase by around £[insert amount by which payment will increase]'; and
 - (h) except where (2)(a) or (2)(b) apply, if (f) applies the following additional text after the text in (g), for each part (or combination of parts), where the amounts by which the *customer's* payments would increase are different: 'After the [describe the interest rate that applies, the part (or parts) to which it applies, and date or period for which it applies] then for one percentage point

increase in [describe the interest rate that applies], your [insert frequency of payments] payment will increase by around £[insert amount by which payment will increase].'

- (2) paragraphs (1)(g) and (1)(h) do not apply where:
 - (a) the interest rate is fixed throughout the term of the *regulated mortgage contract*; or
 - (b) the difference between the interest rate included in the *illustration* in accordance with ■ MCOB 5.6.42 R and the maximum interest rate that can be charged on the *regulated mortgage contract* is less than one percentage point.
- (3) under the sub-heading 'What if your income goes down?': 'You will still have to pay your mortgage if you lose your job or if illness prevents you from working. Think about whether you could do this.'
- (4) For a *retirement interest-only mortgage*, the *firm* may substitute for the text in paragraph (3) more relevant examples of how income may go down.

5.6.60

R

The amount by which the *customer's* payments would increase in accordance with ■ MCOB 5.6.59 R(1)(g) and (h) must be calculated as follows:

- (1) the *firm* must use the total amount borrowed, or assume that all payments due on the *regulated mortgage contract* have actually been paid, all additional fees and payments due have been paid, and no underpayments or overpayments have been made;
- (2) where all or part of the *regulated mortgage contract* is a *repayment mortgage*, the calculation must be based on:
 - (a) the total amount borrowed; or
 - (b) the amount of the loan outstanding from the earliest point at which the interest rate charged on the *regulated mortgage contract* can vary (for example, if the *regulated mortgage contract* has an initial fixed interest rate, this will be from the point at which the fixed interest rate ends); and
- (3) the interest rate from which the increase is calculated must be the variable interest rate charged on the *regulated mortgage contract* at the date that the *illustration* is issued (that is, the variable interest rate quoted in Section 4 of the *illustration*); where the variable interest rate changes after a set period or on a set date, it must be based on the initial variable interest rate charged on the *regulated mortgage contract* at the date the *illustration* is issued (for example, if the initial interest rate is discounted, it must be based on the discounted rate).

5.6.61

G

Although the effect of a one percentage point increase in interest rates on the *customer's* payments is not completely linear, the purpose of ■ MCOB 5.6.59 R(1)(g) and (h) is to show the approximate effect of such an increase.

Risk warning

5.6.62 **R** Unless **■ MCOB 5.6.59 R(2)(a)** or **(b)** apply, the following words must be prominently displayed at the end of the sub-section 'What if interest rates go up?': 'Rates may increase by much more than this so make sure you can afford the [insert frequency of payments from **■ MCOB 5.6.40 R**] payment'.

5.6.63 **R** The following words must be prominently displayed at the end of the sub-section 'What if your income goes down?': 'Make sure you can afford your mortgage if your income falls'.

5.6.64 **G** [deleted]

5.6.65 **R** The following text must be included at the end of Section 7 'Are you comfortable with the risks?': 'The *MoneyHelper* information sheet "You can afford your mortgage now, but what if...?" will help you consider the risks. You can get a free copy from <https://www.moneyhelper.org.uk>, or by calling 0800 138 7777.'

Section 8: 'What fees must you pay?'

5.6.66 **R** Under the section heading 'What fees must you pay?' the *illustration* must:

- (1) itemise all the fees that are included in the calculation of the *APR* in accordance with **■ MCOB 10** (Annual Percentage Rate), excluding any charges for insurance set out in Section 9 in accordance with **■ MCOB 5.6.73 R**; and
- (2) include a statement at the end of the section using the following text: 'You may have to pay other taxes or costs in addition to any fees shown here.'

5.6.67 **G** An example of a fee that would normally be included in Section 8 would be a fee to re-inspect a property after completion of works if it is known that this fee will be charged at the time the *illustration* is produced. An example of a fee that would not be included would be a fee payable by the *customer* to insure their property elsewhere (however this would need to be stated in Section 9 of the *illustration* 'Insurance', as required by **■ MCOB 5.6.77 R(2)**). Fees payable upon repayment of the *regulated mortgage contract* at the end of the mortgage term would need to be included. Where fees are payable only on early repayment of the *regulated mortgage contract*, they should not be stated here (however these fees would need to be stated in Section 10 of the *illustration* 'What happens if you do not want this mortgage any more', as required by **■ MCOB 5.6.88 R(2)**).

5.6.68 **R** The fees included in this section in accordance with **■ MCOB 5.6.66 R** must be itemised under the relevant sub-headings as follows:

- (1) the fees that are payable by the *customer* to the *mortgage lender* must be itemised under the sub-heading 'Fees payable to [name of mortgage lender]';

5.6.69

R

The following information must be provided for each fee included in this section of the *illustration* in accordance with ■ MCOB 5.6.66 R(1):

- (2) the remaining fees must be itemised under the sub-heading 'Other fees'; and
- (3) (a) if there are no fees to be itemised in accordance with (1), the sub-heading must be retained and a statement must be included stating that no fees apply; and
 - (b) if there are no fees to be itemised in accordance with (2), then the sub-heading must be retained and only the text in ■ MCOB 5.6.66 R(2) applies.

5.6.70

R

- (1) a description of the fee;
 - (2) the amount payable by the *customer* recorded in a column headed 'Fee amount' on the right-hand side of this section;
 - (3) for fees included under the sub-heading 'Other fees', to whom the fee is payable;
 - (4) when the fee is payable;
 - (5) whether or not the fee is refundable, and if so, the extent to which it is refundable; and
 - (6) which fees (if any) are estimated in accordance with ■ MCOB 5.6.35 R(2) and based on representative information; and
 - (7) if any fee is payable after the start of the *regulated mortgage contract* and subject to change in the future, for example a fee payable on final repayment of the *regulated mortgage contract*, the amount of that fee, along with a statement that this is the 'current fee'.
- (1) If a *higher lending charge* is payable by the *customer*, the following text must be used to describe such a charge for the purposes of ■ MCOB 5.6.69 R: 'A higher lending charge is payable because you are borrowing [insert the ratio of the mortgage amount (from ■ MCOB 5.6.6 R(2)) to the property's price or value (from ■ MCOB 5.6.6 R(3))] of the property's [estimated] [price/value].'
 - (2) If the *customer* has asked for any fees to be added to the loan, this must be stated alongside each fee.
 - (3) If the *customer* has the option of adding to the loan amount any of the fees included in this section, the following text must be included: 'If you wish you can add [this/these/the {type of fee}] fee(s) to the mortgage. This would increase the amount you borrow to [insert amount of the mortgage with the fee(s) included] and would increase the payments shown in Section 6. If you want to do this, you should ask for another illustration that shows the effect of this on your [insert frequency of payments from ■ MCOB 5.6.40 R] payments.'

- (4) Any fees that are estimated based on representative information in accordance with ■ MCOB 5.6.35 R(2) must include an appropriate explanation of what the fee represents. For example, if this section includes an estimated fee for the legal work that a *customer* might be charged by his conveyancer for carrying out work on behalf of the *mortgage lender*, the *illustration* must explain that the fee is estimated, and that it only covers part of the costs of legal work that the *customer* might need to pay.

5.6.71 **G** 'Other fees' will include any fee charged by a *mortgage intermediary*, or another third party, for advising on or *arranging a regulated mortgage contract* but not commission or *procuration fees* (which are dealt with in Section 13 of the *illustration*).

5.6.72 **R** A *mortgage lender* must provide a *tariff of charges* to the *customer*, if the *customer* so requests.

Section 9: 'Insurance'

5.6.73 **R** (1) Under the section heading 'Insurance' the *illustration* must include details of:

- (a) insurance which is a *tied product*; and
- (b) insurance which is required as a condition of the *regulated mortgage contract* which is not a *tied product*.

(2) A *firm* may also provide details of insurance which it is optional for the *customer* to take out under this section heading.

(3) It must be clear to the *customer* which products he is required to purchase under which circumstances (for example, where both a *tied product* and a *mortgage intermediary* are involved, whether the policy must be purchased from the *mortgage lender* or the *mortgage intermediary*).

5.6.74 **R** Under the sub-heading 'Insurance you must take out through [insert name of *mortgage lender* or where relevant the name of the *mortgage intermediary*, or both]' the following information must be included if the *regulated mortgage contract* requires the *customer* to take out insurance that is a *tied product* either through the *mortgage lender* or where relevant the *mortgage intermediary*:

- (1) details of which insurance is a *tied product*;
- (2) for how long the *customer* is obliged to purchase the insurance;
- (3) an accurate quotation or a reasonable estimate of any payments the *customer* needs to make for the insurance;
- (4) where a quotation is provided for insurance in accordance with (3) on the basis of an estimated sum insured, because the actual required sum insured is unknown, the fact that it is estimated should be stated along with confirmation of the level of cover that has been assumed;

- (5) details of when the *customer's* payments for such insurance change, for example, if premiums are reviewed annually; and
 - (6) where a quotation is not provided in accordance with (3) a statement of when and how a quotation will be provided (for example, separately and as soon as possible).
- 5.6.75 **G** *Firms* are reminded that **MCOB 5.4.23 R** requires a *firm* to provide a *customer* with an accurate quotation for any *tied products*. Where the level of cover the *firm* requires the *customer* to take up is known at the outset, then the quotation should reflect that level of cover.
- 5.6.76 **R** If the *regulated mortgage contract* does not require the *customer* to take out insurance as a *tied product*, the sub-heading 'Insurance you must take out through [insert the name of the *mortgage lender*, and where relevant the name of the *mortgage intermediary*]' must be retained and a statement must be provided under this heading that the *customer* is not obliged to take out any insurance through the *mortgage lender* or, where relevant, the *mortgage intermediary*.
- 5.6.77 **R** The following information must be included under the sub-heading 'Insurance you must take out as a condition of this mortgage but that you do not have to take out through [insert the name of the *mortgage lender*, or where relevant the name of the *mortgage intermediary*, or both]':
- (1) if the *regulated mortgage contract* requires the *customer* to take out an insurance policy (other than that which is a *tied product* which the *customer* is obliged to purchase through the *mortgage lender*, or where relevant the *mortgage intermediary*), a brief statement of the type of insurance the *firm* requires; a quotation for the insurance that the *firm* issuing the *illustration* wishes to promote to the *customer* may be included in the *illustration* (estimated where necessary);
 - (2) if the *mortgage lender* or the *mortgage intermediary* makes a charge in cases where the *customer* does not arrange insurance that is a condition of the *regulated mortgage contract* through the *mortgage lender* or the *mortgage intermediary*, this must be stated, together with the amount of the charge and the frequency with which this charge is payable; and
 - (3) if no insurance policies are required (other than that which is a *tied product*), the sub-heading 'Insurance you must take out as a condition of this mortgage but that you do not have to take out through [insert name(s) of *mortgage lender* and, where relevant the *mortgage intermediary*]' must be retained in the *illustration* and a statement must be provided under this heading that no such insurance is required.
- 5.6.78 **G** Under the sub-heading 'Insurance you must take out as a condition of this mortgage but that you do not have to take out through [insert name of *mortgage lender* or where relevant the name of the *mortgage intermediary*, or both]' the *illustration* should not include any insurance policy that may be taken out by a *mortgage lender* itself to protect its own interests rather than

- the *customer's* interests, for example, because of the ratio of the loan amount to the property value.
- 5.6.79** **G** If the cost of any insurance that the *mortgage lender* might take out to protect its own interests, because of the ratio of the loan amount to the property value, is passed on to the *customer*, it will be shown elsewhere in the *illustration*, for example, as a *higher lending charge* or in the interest rate charged.
- 5.6.80** **R** A *firm* may include in the *illustration*, under the sub-heading 'Optional insurance', quotations (estimated where necessary) for any insurance products (other than the insurance products covered elsewhere in the *illustration* in accordance with ■ MCOB 5.6.74 R and ■ MCOB 5.6.77 R) that the *firm* issuing the *illustration* wishes to promote to the *customer*.
- 5.6.81** **R** If no quotations are included in the *illustration* in accordance with ■ MCOB 5.6.80 R, the sub-heading 'Optional insurance' must not be included in the *illustration*.
- 5.6.82** **R**
- (1) If any quotations for insurance are included in the *illustration* in accordance with ■ MCOB 5.6.74 R(3), ■ MCOB 5.6.77 R(1) or ■ MCOB 5.6.80 R, the *illustration*:
 - (a) must include a brief description only of the type of insurance (full details of the insurance cover may however be provided separately); and
 - (b)
 - (i) must include the total price to be paid by the *customer* in a column on the right hand side of the *illustration* under the heading '[insert frequency of payments quoted] payments'; and
 - (ii) may refer the *customer* to the individual insurance product disclosure documentation.
 - (2) If the *customer* has asked to add any insurance premiums or insurance-related charges to the amount borrowed in accordance with ■ MCOB 5.6.18 R(3), the *illustration* must state that this is the case.
- 5.6.83** **G** The terms on which an insurance premium has been calculated should be presented to the *customer* in the format determined by the relevant regulatory requirements.
- Section 10: 'What happens if you do not want this mortgage any more?'**
- 5.6.84** **R** Under the heading 'What happens if you do not want this mortgage any more?', the *illustration* must include the following information on the *regulated mortgage contract*:
- (1) under the sub-heading 'Early repayment charges':
 - (a) an explanation that the *customer* cannot repay the *regulated mortgage contract* early, if this is the case;

- (b) an explanation of whether *early repayment charges* are payable;
 - (c) an explanation of when *early repayment charges* are payable;
 - (d) an explanation of any other fees that are payable if the *regulated mortgage contract* is repaid early, and the current level of these fees;
 - (e) a basic explanation of the basis on which *early repayment charges* are calculated (for example, as a percentage of the loan or as so many months' interest), including where appropriate details of any *cashback* or other incentives that must be repaid. The *illustration* may refer to a separate document for full details of all terms and conditions relating to the charges that apply if the *regulated mortgage contract* is repaid early;
 - (f) example cash amounts of any *early repayment charges* indicating the range of charges that apply over the period during which such charges apply calculated in accordance with ■ MCOB 5.6.88 R, which must be described in the *illustration* as cash examples;
 - (g) the maximum *early repayment charge* that the *customer* could be charged in accordance with ■ MCOB 12.3 (Early repayment charges), plus the cost of any other fees, which must be shown as cash amounts and described in the *illustration* as 'the maximum charge you could pay' [add if applicable, 'plus (a) fee(s) which (is/ are) currently £x']; and
- (2) under the sub-heading 'What happens if you move house?': details of whether or not the *regulated mortgage contract* is portable on moving house and a brief explanation of any conditions or restrictions that apply including whether there are any restrictions on changing the terms of the *regulated mortgage contract* during the period in which any *early repayment charges* apply (a reference to another document may be made in order to provide the *customer* with further details of the conditions or restrictions).

5.6.85 G The requirements in ■ MCOB 5.6.84 R(1) may be presented in a tabular format.

5.6.86 R Where ■ MCOB 5.6.84 R(1)(f) would result in more than three cash amounts being shown in the *illustration*, the cash amounts shown in the *illustration* may be restricted to three examples. These examples must be representative of the full range of charges that apply and not be limited to the lowest charges that apply. These three examples are in addition to:

- (1) any statement of the amount of any fees described in ■ MCOB 5.6.84 R(1)(d); and
- (2) the maximum *early repayment charge* required by ■ MCOB 5.6.84 R(1)(g).

5.6.87 G An example which would comply with ■ MCOB 5.6.86 R would be if a five year fixed rate mortgage had a charge which reduced linearly by 1% each year from 5% in the first year to 1% in the final year and cash examples were used based on 5% in year 1, 3% in year 3 and 1% in year 5.

- 5.6.88** **R**
- (1) In calculating example cash amounts in accordance with **■ MCOB 5.6.84 R(1)(f)**, it must be assumed that:
 - (a) the *regulated mortgage contract* is repaid in full;
 - (b) unless the original amount borrowed is used, that all payments due on the *regulated mortgage contract* are actually paid;
 - (c) additional fees and charges such as insurance premiums have been paid; and
 - (d) no underpayments or overpayments have been made.
 - (2) If:
 - (a) *cashbacks* or other incentives need to be repaid; or
 - (b) fees need to be paid;
 the amounts that would need to be repaid or paid must be included in the example cash amounts.
 - (3) Where the calculation of the *early repayment charge* is based on the interest rate charged on the *regulated mortgage contract* or on interest rates generally, the interest rates used for the calculation of the example cash amounts must be those in force at the date that the *illustration* is issued to the *customer*.
 - (4) The example cash amounts must reflect the maximum charge in a particular year. Where it is possible to state exact *early repayment charges* (that is, where all such charges are based on the original amount borrowed), the *illustration* must do so.

- 5.6.89** **R**
- Where the cash examples from **■ MCOB 5.6.88 R** included in the *illustration* would vary either if the interest rate charged on the *regulated mortgage contract* changed or with changes in interest rates generally, an appropriate warning that the *early repayment charges* may vary from the cash examples must be included in the *illustration*.

Section 11: 'What happens if you want to make overpayments?'

- 5.6.90** **R**
- (1) Under the section heading 'What happens if you want to make overpayments?', the *illustration* must include details of any restrictions on lump sum and regular overpayments on the *regulated mortgage contract*, together with a statement as to whether or not the amount on which the interest charged is recalculated is reduced immediately on receipt of any lump sum or regular overpayment.
 - (2) Where such recalculation does not take place immediately (for example, if an annual rest method is used), then this statement must be accompanied by an explanation of when the amount on which the interest charged is recalculated is reduced following a lump sum or regular overpayment.
 - (3) Where *early repayment charges* apply, this section must not repeat the details provided in Section 10 of the *illustration*, but may refer to Section 10.

5.6.91

G

Where the interest recalculation described in ■ MCOB 5.6.90 R takes place immediately, *firms* may add a statement in this section explaining that the *customer* will get the benefit of the overpayment immediately, and *firms* may refer to supplementary information to illustrate further, the benefits of making regular overpayments.

Section 12: 'Additional features'

5.6.92

R

Under the section heading 'Additional features' the *illustration* must include, where relevant, details of any additional features or facilities under the various sub-headings in ■ MCOB 5.6.94 R.

- 5.6.93
- R
- (1) If none of the features at ■ MCOB 5.6.94 R are applicable to the *regulated mortgage contract* to which the *illustration* relates, the section headed 'Additional features' must be retained, but the sub-headings must not be included and a statement must be added to explain that there are no additional features.

(2) Only those features available on the *regulated mortgage contract* need be included in the *illustration*.

(3) If a *firm* provides a *customer* with supplementary information about any additional features or facilities over and above the information required under ■ MCOB 5.6.92 R to ■ MCOB 5.6.112 G, the *firm* may include a reference to that supplementary information in Section 12.

- 5.6.94
- R
- The relevant sub-headings are as follows:
- (1) 'Underpayments';

(2) 'Payment holidays';

(3) 'Borrow back';

(4) 'Incentives';

(5) 'Additional borrowing available without further approval';

(6) 'Additional secured borrowing';

(7) 'Credit card';

(8) 'Unsecured borrowing';

(9) 'Linked current account'; and

(10) 'Linked savings account'.

5.6.95

R

Under the sub-heading 'Underpayments', the *illustration* must include details of circumstances in which the *customer* can make underpayments and a brief statement of any conditions that apply.

- 5.6.96** **R** Under the sub-heading 'Payment holidays', the *illustration* must include details of circumstances in which the *customer* can take *payment holidays* and a brief statement of any conditions that apply.
- 5.6.97** **R** Under the sub-heading 'Borrow back', the *illustration* must include details of circumstances in which the *customer* can *borrow back* any monies overpaid and a brief statement of any conditions that apply.
- 5.6.98** **R** Under the sub-heading 'Incentives', the *illustration* must include:
- (1) any incentives including *cashbacks*; and
 - (2) if a *cashback* is provided, the amount of the *cashback* and details of when it is paid to the *customer*.
- 5.6.99** **R** Under the sub-heading 'Additional borrowing available without further approval', the *illustration* must provide details of circumstances in which there are any *linked borrowing* facilities that would allow the *customer* to increase the amount of the loan on which the *illustration* is based without any further approval from the *mortgage lender* (for example, if there are additional drawdown facilities).
- 5.6.100** **R** Under the sub-heading 'Additional secured borrowing', the *illustration* must provide details of circumstances in which additional *secured lending* is offered with the *regulated mortgage contract* that would allow the *customer*, subject to certain conditions, to increase the amount of the loan on which the *illustration* is based.
- 5.6.101** **R** Under the sub-heading 'Unsecured borrowing', the *illustration* must provide details of circumstances in which *unsecured lending* is offered with the *regulated mortgage contract* that would allow the *customer* to increase the amount of the loan on which the *illustration* is based.
- 5.6.102** **R** Under the sub-heading 'Credit card', the *illustration* must:
- (1) state if a credit card is offered with the regulated mortgage contract; and
 - (2) if a credit card is offered and it is a *mortgage credit card*:
 - (a) unless (b) applies, include the following text: 'This card will not give you a number of the statutory rights associated with traditional credit cards. Your mortgage offer will tell you more about the differences.'; or
 - (b) where the *mortgage lender* provides the *customer* with contractual rights in relation to a *mortgage credit card* equal to or greater than the rights that the *customer* would have under the Consumer Credit Act 1974 and *CONC* if the card were issued under a *regulated credit agreement*, include the following text: 'This card will not give you a number of the statutory rights associated with traditional credit cards. However, [insert name of *mortgage lender*] will ensure that you will be treated no

differently from the user of a traditional credit card. Your mortgage offer will tell you more about this.'

5.6.103

R

Where any of the additional features under ■ MCOB 5.6.99 R to ■ MCOB 5.6.102 R inclusive apply, then the following must also be stated if the amount of additional borrowing that would be available to the *customer* is stated in the *illustration*:

- (1) the maximum additional amount available;
- (2) if the interest rate payable on any additional borrowing is different to the interest rate in Section 4 and Section 6 of the *illustration*, the interest rate and the *APR* charged on the additional borrowing. The *APR* must be calculated in accordance with ■ MCOB 10 (Annual Percentage Rate), based on the maximum amount of additional borrowing that would be permitted for the *customer* and the term of the loan from ■ MCOB 5.6.6 R(4);
- (3) the total resulting debt the *customer* could incur (including the original loan amount);
- (4) (where there is a regular payment plan) the payments on this total debt based on the frequency of payments in ■ MCOB 5.6.40 R and the current interest rate(s) applying on the date the *illustration* is issued;
- (5) whether this additional borrowing must be repaid in full if the original loan is repaid in full, along with details of any conditions that apply;
- (6) if *early repayment charges* apply to the additional amount borrowed:
 - (a) that *early repayment charges* are payable;
 - (b) an explanation of when *early repayment charges* are payable; and
 - (c) the maximum *early repayment charge* that the *customer* could be charged in accordance with ■ MCOB 12.3 (Early repayment charges) which must be shown as a cash amount; and
- (7) if it is the case, that the maximum amount of borrowing available, or the terms and conditions, may change depending on factors such as ratio of the loan amount to the property value.

5.6.104

R

Where more than one additional borrowing facility from ■ MCOB 5.6.99 R to ■ MCOB 5.6.102 R applies, the total debt and total payments due under all these *linked borrowing* facilities must be included under a separate subsection titled 'Total additional borrowing'.

5.6.105

G

The purpose of ■ MCOB 5.6.104 R is to show the total amount of any additional borrowing facilities that would be available to the *customer* and the cost of utilising these facilities. It must combine the amount available under any *linked borrowing* facilities including additional *secured lending*, credit cards and *unsecured lending*.

- 5.6.106** **R** (1) Where additional features are included in accordance with ■ **MCOB 5.6.92 R** and these are credit facilities that do not meet the definition of a *regulated mortgage contract* or a *regulated credit agreement*, the relevant parts of Section 12 of the *illustration* must include the following text:
- 'This additional feature is not regulated by the *FCA*'.
- (2) Where additional features are included in accordance with ■ **MCOB 5.6.92 R** and these are credit facilities that meet the definition of a *regulated credit agreement* regulated by the Consumer Credit Act 1974 and the *Act*, the relevant parts of Section 12 of the *illustration* must include the following text 'This additional feature is regulated under the Consumer Credit Act 1974 and the Financial Services and Markets Act 2000. You will receive a separate credit agreement with any offer document for this additional feature, describing the detailed terms on which this feature is available.'
- 5.6.107** **R** Where all or part of the maximum amount of additional borrowing is secured on the *customer's* home, a prominent warning must be included that additional borrowing increases the amount of credit secured on the *customer's* home.
- 5.6.108** **G** Suitable wording for the warning contained in ■ **MCOB 5.6.107 R** would be: 'This will increase the amount of borrowing secured on your home'.
- 5.6.109** **R** (1) Under the sub-heading 'Linked current account', the *illustration* must include the following information:
- (a) whether a linked current account is a compulsory or optional product (if the current account is a compulsory product this must also be stated in Section 4 of the *illustration* in accordance with ■ **MCOB 5.6.25 R(6)**);
 - (b) an explanation of the interest rates that apply under different circumstances to the linked current account, if different from the interest rate charged on the *regulated mortgage contract* (for example, if a different interest rate applies if the account is overdrawn); and
 - (c) the *firm* providing the linked current account if it is not the *mortgage lender*.
- (2) If an example to show the effect of the linked current account on the *regulated mortgage contract* is included in the *illustration*, it must be based on the actual or likely amount that the *customer* intends to pay into the linked current account on a regular basis and the actual or likely expenditure profile of the *customer* concerned.
- 5.6.110** **R** (1) Under the sub-heading 'Linked savings account', the *illustration* must include the following information:
- (a) whether a linked savings account is a compulsory or optional product (if the savings account is a compulsory product this must also be stated in Section 4 of the *illustration* in accordance with ■ **MCOB 5.6.25 R(6)**);

		<p>(b) the interest rate paid on the linked savings account if it differs from the interest rate charged on the <i>regulated mortgage contract</i>; and</p> <p>(c) the <i>firm</i> providing the linked savings account if it is not the <i>mortgage lender</i>.</p> <p>(2) If an example to show the effect of the linked savings account on the <i>regulated mortgage contract</i> is included in the <i>illustration</i>, it must be based on the actual or likely level of relevant savings for the <i>customer</i> concerned.</p>
5.6.111	G	<p>If an example is included in the <i>illustration</i> in accordance with ■ MCOB 5.6.109 R(2) or ■ MCOB 5.6.110 R(2), it must be based on information obtained from the <i>customer</i> and the amounts that are intended to be paid into the current or savings account on a regular basis; the amounts that it is intended are saved; and the actual or likely expenditure profile. The amounts involved and the expenditure profile should not be standard assumptions made by the <i>firm</i>, but should be those of the <i>customer</i> or the relevant person who would hold the accounts, or both, and be of a conservative nature. These assumptions should be stated in the <i>illustration</i>. For example, it should not be assumed that the <i>customer</i> will make lump sum payments unless he has indicated that he intends to do so, and in the case of linked current accounts it should not be assumed that the <i>customer</i> or person holding the account leaves monies in the current account at the end of each month unless he actually does so, or intends to do so. In this case, a conservative assumption might be that the <i>customer</i> spends all the money paid into his current account evenly over the month.</p>
5.6.112	G	<p>If a linked current account and a linked savings account are offered as part of the <i>regulated mortgage contract</i>, the examples in ■ MCOB 5.6.109 R(2) and ■ MCOB 5.6.110 R(2) can be combined into one example.</p>
		<p>Section 13: 'Using a mortgage intermediary'</p>
5.6.113	R	<p>Where the <i>illustration</i> is issued to a <i>customer</i> by, or on behalf of, a <i>mortgage intermediary</i>, Section 13 'Using a mortgage intermediary' must be included in the <i>illustration</i> and must include the following:</p> <p>(1) unless ■ MCOB 5.6.114 R applies, a clear statement of the amount payable (either directly or indirectly) by the <i>mortgage lender</i> to the <i>mortgage intermediary</i>, or to any third parties; and</p> <p>(2) the name of the <i>mortgage lender</i> who will make the payment, the name of the <i>mortgage intermediary</i> and the names of any third parties who will be paid.</p>
5.6.114	R	<p>If the amount payable by the <i>mortgage lender</i> to the <i>mortgage intermediary</i> and to third parties is £250 or less, the <i>mortgage intermediary</i> need only state that the amount of the payment is 'no more than £250', unless the <i>customer</i> requests the actual amount.</p>
5.6.115	R	<p>If the <i>mortgage intermediary</i> will pass to the <i>customer</i> all or part of the amount payable to the <i>mortgage intermediary</i> under ■ MCOB 5.6.113 R(1) or</p>

- MCOB 5.6.114 R, that fact may be stated in this section, along with the amount payable to the *customer*.
- 5.6.116** **R** If the *mortgage lender* will make no payment to the *mortgage intermediary* or any third party, this section may state that the *mortgage intermediary* will receive no payment.
- 5.6.117** **R** The amount payable in ■ MCOB 5.6.113 R(1) or ■ MCOB 5.6.114 R must include, but is not limited to:
- (1) any *procuration fee*; and
 - (2) a cash value for any material non-cash inducements that the *mortgage lender* provides to a *mortgage intermediary* or third party, whether payable directly or indirectly.
- 5.6.118** **G** ■ MCOB 2.3.7 R requires any material inducements provided by a *mortgage lender*, whether directly or indirectly, to a *mortgage intermediary* or third party (unless the payment only reflects the cost of outsourcing work relating to the processing of mortgage applications by a *firm* unconnected to the *mortgage intermediary*) to be quantified in cash terms, which will enable the cash values to be included in the *illustration* in accordance with ■ MCOB 5.6.117 R.
- 5.6.119** **G** An example of a statement which would comply with ■ MCOB 5.6.113 R and ■ MCOB 5.6.117 R would be: '[name of *mortgage lender*] will pay [name of *mortgage intermediary*] an amount of £350 in cash and benefits if you take out this mortgage.'
- Section 14: 'Where can you get more information about mortgages?'**
- 5.6.120** **R** This section must be renumbered Section 13 if the *illustration* is not provided by, or on behalf of, a *mortgage intermediary*.
- 5.6.121** **R** Under the section heading 'Where can you get more information about mortgages?', the prescribed text under this heading in ■ MCOB 5 Annex 1 must be included.
- Contact details**
- 5.6.122** **R** This section must follow the section 'Where can you get further information about mortgages?' and must include the name, address and contact point of the *firm* providing the *illustration*.
- 5.6.123** **G** An example of wording which would comply with ■ MCOB 5.6.122 R would be: 'If you wish to discuss this mortgage illustration please contact [name of *firm*] at [address] or on [telephone number]'.

Risk warning

5.6.124 **R**

- (1) The following words must be prominently displayed in the *illustration*, after the contact details: 'Your home may be repossessed if you do not keep up repayments on your mortgage'.
- (2) If the loan may be secured on property which is not the *customer's* home the statement in (1) may be amended but only to the extent necessary in order to reflect that fact.

5.6.125 **G**

[deleted]

Amortisation table

5.6.126 **G**

- (1) An amortisation table may be added to the end of the *illustration* after the information required by **MCOB 5.6.124 R** if the *mortgage lender* or *mortgage intermediary* wishes. A *firm* may find that this is particularly appropriate to illustrate certain types of *regulated mortgage contract*, for example, a *regulated mortgage contract* with more than one part.
- (2) The purpose of (1) is to permit a *firm* to add an amortisation table in accordance with the European Commission's 'Recommendation of 1 March 2001 on pre-contractual information to be given to consumers by lenders offering home loans' (C(2001) 477 final).

Foreign currency mortgages

5.6.127 **R**

If the *customer's* liability under a *regulated mortgage contract* is in a currency other than sterling, **MCOB 5.6** applies to the *illustration* for that *regulated mortgage contract* with the following amendments:

- (1) all cash amounts must be given in the relevant currency except where otherwise required in (2)(a) and (3);
- (2) the following information must be stated under Section 4 'Description of this mortgage':
 - (a) the amount in sterling on which the *illustration* is based from **MCOB 5.6.6 R(2)** based on the exchange rate in (2)(b);
 - (b) the exchange rate used; and
 - (c) when the exchange rate quoted applied;
- (3) the following text must be added at the end of Section 4 'Description of this mortgage': 'This illustration is based on the sterling equivalent of [insert details from (2)(a)] based on [insert details from (2)(b)] as at [insert details from (2)(c)]. Exchange rates can vary significantly. The effect of a 5% decrease in the value of sterling to the [insert name of relevant currency] would increase your total borrowing to [insert amount to which the amount borrowed from **MCOB 5.6.6 R(2)** would increase in sterling]. This would increase your [insert frequency of payments from **MCOB 5.6.40 R**] payments by the sterling equivalent of £[insert amount in sterling]'. The following information must be added to this text:

- 5.6.128

R

(a) the cash amount to which the amount borrowed would increase in sterling if there was a decline of 5% in the value of sterling when compared to the relevant currency; and

(b) the amount by which (2)(b) would increase the *customer's* payments based on the frequency of payments from
■ MCOB 5.6.40 R, shown as a sterling equivalent cash amount.

Risk warning

- 5.6.128

R

The text at ■ MCOB 5.6.124 R must be immediately followed by the following additional text, prominently displayed : 'Changes in the exchange rate may increase the sterling equivalent of your debt.'

- 5.6.129

R

- 5.6.130

G

Risk warning

- 5.6.131

R

Deferred interest rate mortgages

- 5.6.132

R

If the interest rate charged on the *regulated mortgage contract* is deferred, ■ MCOB 5.6 applies with the following additions:

(1) A section headed: 'Effect of deferring interest on the amount you owe' must be included in the *illustration* after Section 6.

(2) This section must be numbered 6a so that the numbering follows on consecutively from the preceding section unless ■ MCOB 5.6.55 R applies in which case it should be numbered 6b.

(3) Under the section heading the following text must be included: 'This table shows the effect of the deferred interest being added to the amount you owe'; and if the interest rate is variable: 'The amounts shown in this table could be considerably different if the interest rate changes.'

(4) Under the text in (3), a table must be included showing each year or part year that the interest rate charged on the *regulated mortgage contract* is deferred, in the format set out in ■ MCOB 5 Annex 1 and containing the following information in the columns under the following headings:

(a) 'Year': This must list the years as 1, 2, 3 and so on for each year or part year that the interest charged on the *regulated mortgage contract* is deferred. Where the interest rate charged on the *regulated mortgage contract* changes at a particular date rather than annually, the table may be adapted to accommodate this (for example, by including details of more than one interest rate each year).

- (b) 'Interest deferred': This must show the percentage of interest deferred based on the rates charged on the *regulated mortgage contract* at the date the *illustration* is issued.
- (c) 'Amount of deferred interest added to the mortgage': This must show the cumulative amount that is added to the loan as a cash amount as a result of deferring the payment of interest.
- (d) 'Remaining debt before deferred interest is added': This must show the amount of loan outstanding on the *regulated mortgage contract* before any deferred interest is added.
- (e) 'Remaining debt with deferred interest added': This must show the amounts from (4)(c) and (4)(d) added together.

Alternative requirements for loans without a term or a regular repayment plan Section 6: 'What you will need to pay each [insert frequency of payments from MCOB 5.6.40R]'

- 5.6.133

R

■ MCOB 5.6.134 R to ■ MCOB 5.6.138 G apply only to loans without a term or regular payment plan where some or all of the interest rolls up, for example *bridging loans*, secured overdrafts or *mortgage credit cards*.
- 5.6.134

R

The heading for Section 6 of the *illustration* and the heading of the column on the right-hand side of this section must state the frequency with which payments must be made by the *customer*. (For example, if payments were to be made on a monthly basis, the heading for this section would be 'What you will need to pay each month' and the column would be headed 'Monthly payments'). Where no regular payments are required on the *regulated mortgage contract*, for example where all interest is rolled-up on a *bridging loan*, then this section must be retained and the frequency of payments assumed must be 'monthly'.
- 5.6.135

R

All the payments in Section 6 of the *illustration* must be calculated based on the frequency used for the purposes of the headings in ■ MCOB 5.6.40 R and must be shown in the column on the right-hand side of this section. If no payments are required, for example on a *bridging loan* or secured overdraft, then this column should be marked on the *illustration* as nil.
- 5.6.136

R

Section 6 of the *illustration* must contain the following information:
 - (1) the loan amount on which the *illustration* is based. Where fees are being added to the loan then this figure should include all fees, charges and insurance premiums that have been added to the loan in accordance with ■ MCOB 5.6.18 R(2) and ■ MCOB 5.6.18 R(3), and the following text must follow the loan amount:'and include[s] the fees [and insurance premiums] that are shown in Section 8 [and Section 9] as being added to your mortgage.';
 - (2) the assumed start date that has been used in the *illustration* must be stated using the following text:'This illustration assumes that the mortgage will start on [insert assumed start date].';
 - (3) where no payments are required (or no payments are allowed), for example a *bridging loan* or secured overdraft, then section 6 of the

illustration should state if no payments are required or no payments can be made; or

- (4) where a minimum payment is required, for example on a *mortgage credit card*:
 - (a) a statement that a minimum payment will be required;
 - (b) an explanation of the basis on which this has been calculated, for example a percentage of the loan amount;
 - (c) if this monthly payment is insufficient on its own to repay the *regulated mortgage contract* over the term specified, the following text: 'This payment will not be sufficient to repay the mortgage over the term specified'; and
 - (d) the amount that the *customer* must pay, recorded in the right-hand column of this section.

5.6.137 G An example of the statement required by ■ MCOB 5.6.136 R(3) would be: 'You [do not need to/cannot] make regular payments on this mortgage.'

5.6.138 G An example of ■ MCOB 5.6.136 R(4) would be: 'You need to make minimum payments as follows: 3% of the amount outstanding £x.xx This payment will not be sufficient to repay the mortgage over the term specified.'

Section 7: 'Are you comfortable with the risks?'

5.6.139 R ■ MCOB 5.6.140 R to ■ MCOB 5.6.145 R apply only to loans without a term or regular payment plan where some or all of the interest rolls up, for example *bridging loans*, secured overdrafts or *mortgage credit cards*.

5.6.140 R Under the section heading 'Are you comfortable with the risks?':

- (1) under the sub-heading 'What if interest rates go up?' the *illustration* must include the following:
 - (a) if the interest rate is fixed throughout the term of the *regulated mortgage contract*, an explanation that the interest rate will not vary because the interest rate is fixed;
 - (b) if the interest rate is fixed for part of the term of the *regulated mortgage contract*, an explanation of when or how increases in the interest rate charged on the *regulated mortgage contract* affect the amount the *customer* must pay back;
 - (c) if the interest rate cannot go above or below a certain level, or both, throughout the term of the *regulated mortgage contract*, an explanation that this is the case;
 - (d) if the interest rate cannot go above or below a certain level for part of the term of the *regulated mortgage contract*, an explanation that this is the case and of when or how increases in the interest rate charged on the *regulated mortgage contract* affect the amount the *customer* must pay back;
 - (e) except where (2)(a) or (2)(b) apply, Section 7 of the *illustration* must include the following text: 'The total amount you must pay back shown in this illustration could be considerably different if

interest rates change. For example, for one percentage point increase in [describe the interest rate that applies], the total amount you must pay back will increase by around £[insert amount by which the *total amount payable* will increase].'

- (2) paragraph (1)(e) does not apply:
- (a) where the interest rate is fixed throughout the term of the *regulated mortgage contract*; or
 - (b) where the difference between the interest rate included in the *illustration* in accordance with ■ MCOB 5.6.25 R(2) and the maximum interest rate that can be charged on the *regulated mortgage contract* is less than one percentage point.
- (3) under the sub-heading 'What if your income goes down?': 'You will still have to pay your mortgage if you lose your job or if illness prevents you from working. Think about whether you could do this.'

5.6.141 **R** The amount by which the *total amount payable* would increase in accordance with ■ MCOB 5.6.140 R(1)(e) must be calculated as follows:

- (1) unless the total amount borrowed is used, it must be assumed that all payments due on the *regulated mortgage contract* have actually been paid, all additional fees and payments due have been paid, and no under or overpayments have been made;
- (2) unless the total amount borrowed is used, the calculation must be based on the amount of the loan outstanding from the earliest point at which the interest rate charged on the *regulated mortgage contract* can vary; for example, if the *regulated mortgage contract* has an initial fixed interest rate, this will be from the point at which the fixed interest rate ends;
- (3) the interest rate from which the increase is calculated must be the variable interest rate charged on the *regulated mortgage contract* at the date that the *illustration* is issued (that is, the variable interest rate quoted in Section 4 of the *illustration*); where the variable interest rate changes after a set period or on a set date, it must be based on the initial variable interest rate charged on the *regulated mortgage contract* at the date the *illustration* is issued. (For example, if the initial interest rate is discounted, it must be based on the discounted rate.)

Risk warning.....

5.6.142 **R** Unless ■ MCOB 5.6.140 R(2)(a) or (b) applies, the following words must be prominently displayed at the end of the sub-section 'What if interest rates go up?': 'Rates may increase by much more than this so make sure you can afford this loan.'

5.6.143 **R** The following words must be prominently displayed at the end of the sub-section 'What if your income goes down?': 'Make sure you can afford your mortgage if your income falls'.

5.6.144 **G** [deleted]

5.6.145 **R** The following text must be included at the end of Section 7 'Are you comfortable with the risks?': 'The *MoneyHelper* information sheet "You can afford your mortgage now, but what if...?" will help you consider the risks. You can get a free copy from <https://www.moneyhelper.org.uk> or by calling 0800 138 7777.'

5.7 Business loans and loans to high net worth mortgage customers: tailored provisions

- 5.7.1** **R** Where the *regulated mortgage contract* is for a business purpose or a *high net worth mortgage customer*, a *firm* may choose to provide a *business illustration* or *high net worth illustration* (as applicable) (in compliance with ■ MCOB 5.7.2 R) instead of complying with ■ MCOB 5.6.
- 5.7.1A** **G** *Firms* are reminded that, in accordance with ■ MCOB 1.2.3 R, they should comply in full with *MCOB*, but in doing so may opt to take account of all tailored provisions in *MCOB* that relate to business loans or loans to *high net worth mortgage customers*. Therefore, a *firm* may only follow the tailored provisions in ■ MCOB 5.7 in relation to one of these sectors if it also follows all other tailored provisions in *MCOB* that relate to that sector. In either case, the rest of *MCOB* applies in full.
- 5.7.2** **R** A *business illustration* or *high net worth illustration* provided to a customer must:
- (1) use the headings and prescribed text in ■ MCOB 5 Annex 1 (except as provided in ■ MCOB 5.7) but need not follow the format;
 - (2) include the content required by ■ MCOB 5.6.3 R to ■ MCOB 5.6.128 R (except ■ MCOB 5.6.5 R, ■ MCOB 5.6.101 R, ■ MCOB 5.6.109 R to ■ MCOB 5.6.112 G, ■ MCOB 5.6.120 R and ■ MCOB 5.6.121 R);
 - (3) use the key facts logo followed by the text 'about this [term used by the *firm* to describe the borrowing, for example 'mortgage']';
 - (4) use font sizes and typefaces consistently throughout the *business illustration* or *high net worth illustration* which are sufficiently legible so that the *business illustration* or *high net worth illustration* can be easily read by a typical customer;
 - (5) ensure that the information is clearly laid out (for example, through the use of bullet points or similar devices to separate information);
 - (6) describe any *early repayment charge* as an 'early repayment charge' and not use any other expression to describe such charges;
 - (7) describe any *higher lending charge* as a 'higher lending charge' and not use any other expression to describe such charges; and

5.7.3

G

- (8) include the risk warning described in ■ MCOB 5.6.124 R, or an equally clear and effective variation of this reflecting the nature of the *regulated mortgage contract*.
- (1) ■ MCOB 5.7.2 R(1) means that *firms* do not have to follow the ordering of sections set down in ■ MCOB 5.6, although they may choose to do so.
- (2) In accordance with ■ MCOB 5.7.2 R(8) an example of an appropriate variation to the risk warning would be: 'Your home may be repossessed if you are unable to fulfil the terms of this secured overdraft'.
- (3) A *firm* may also choose to include other information beyond that required by ■ MCOB 5.6. However, when adding additional material a *firm* should have regard to:
- (a) the intended use of the *business illustration* or *high net worth illustration* as an aid to comparison by *customers*; and
 - (b) the requirement in MCOB 3A.2.1R that any communication should be fair, clear and not misleading.
- (4) The *business illustration* or *high net worth illustration* provided in accordance with ■ MCOB 5.7.2 R should be based upon the total borrowing that the *firm* is willing to provide under the *regulated mortgage contract*. This means that there is no requirement for a *firm* to provide a further *business illustration* or *high net worth illustration* (or *business offer document* or *high net worth offer document*) where a *customer* redraws against payments made under the *regulated mortgage contract*, providing this redrawing does not exceed the borrowing described in the original *business offer document* or *high net worth offer document*.
- (5) ■ MCOB 5.6.6 R(4) requires that where the term of the *regulated mortgage contract* is open-ended, the *business illustration* or *high net worth illustration* must be based on an assumed term of 12 months and that this assumption must be stated. This does not mean that a *firm* is limited in the actual term of the *regulated mortgage contract*. A *firm* is able to include in the *business illustration* or *high net worth illustration* an explanation that while a 12-month term has been assumed for the purpose of the *business illustration* or *high net worth illustration*, the *regulated mortgage contract* itself will be open-ended.

5.7.4

R

Any *business illustration* or *high net worth illustration* provided by a *firm* must be limited to facilities provided under a *regulated mortgage contract*.

5.7.5

R

■ MCOB 5.6.31 R(2), ■ MCOB 5.6.52 R(1) and ■ MCOB 5.6.52 R(4) prescribe text that should be used to remind a *customer* with an *interest-only mortgage* that there is a need to separately arrange for the repayment of capital. The options for repayment of capital may be different where the *regulated mortgage contract* is for a business purpose or a *high net worth mortgage customer*, and a *firm* must vary the prescribed wording in the *business illustration* or *high net worth illustration* to reflect this. One approach may

be for the *firm* to revise the wording to reflect how the *customer* has said he will repay the capital.

5.7.6

R

- (1) When providing a *business illustration* or *high net worth illustration* in accordance with ■ MCOB 5.7.2 R a *firm* should describe facilities provided under the *regulated mortgage contract* that are not a loan within section 12 (Additional features) of the *business illustration* or *high net worth illustration*.
- (2) In complying with (1), a *firm* should follow the requirements in ■ MCOB 5.6.92 R ■ MCOB 5.6.108 G where these are relevant. Where the facility is of a type not considered in ■ MCOB 5.6.92 R ■ MCOB 5.6.108 G the *firm* should provide in section 12:
 - (a) a brief description of the facility involved;
 - (b) the term of the facility if different from the term described elsewhere in the *business illustration* or *high net worth illustration*; and
 - (c) a summary of any charges, including any *early repayment charges*, which apply to the operation of the facility.
- (3) Full information on any facility described in section 12 must be provided in supplementary materials that accompany the *business illustration* or *high net worth illustration*.

5.7.7

G

- (1) In accordance with ■ MCOB 5.7.6 R(1), where the *regulated mortgage contract* includes a loan, the facilities described in section 12 of the *business illustration* or *high net worth illustration* should include the existence of, and a simple explanation of, any all monies charge, any contingent liabilities such as guarantees and so on.
- (2) Where the *regulated mortgage contract* includes more than one loan facility (such as a secured loan and a separate secured overdraft facility) the *business illustration* or *high net worth illustration* should be based upon the primary facility and describe any other loan within section 12.

5.8 Home purchase plans

5.8

Applying for a home purchase plan

Note: The rules regarding applying for a *home purchase plan* are set out in ■ MCOB 5.3.

5.8.1

R

Financial information statement: timing

Except in the circumstances in ■ MCOB 5.8.1A R, a *firm* dealing directly with a *customer* must ensure that the *customer* is, or has been, provided with an appropriate financial information statement for a *home purchase plan* in a *durable medium*:

- (1) before the *customer* submits an application for that particular plan to a *home purchase provider*; and
- (2) without undue delay when any of the following occurs:
 - (a) the *firm* advises the particular *customer* to enter into one or more *home purchase plans*, in which case a financial information statement must be provided at the point the advice is given (and financial information statements for all recommended *home purchase plans* must be provided), unless the advice is given by telephone, in which case the *firm* must provide a financial information statement within five *business days*; or
 - (b) [deleted]
 - (c) [deleted]
 - (d) the *customer* requests a financial information statement, unless the *firm* is aware that it is unable to offer that *home purchase plan* to him; or
 - (e) as part of an *execution-only sale* (or potential *execution-only sale*) the *customer* has provided the *firm* with the information in ■ MCOB 4.10.9D R (Execution-only sales) (see ■ MCOB 4.10.9B R and ■ MCOB 4.10.9C G) to indicate which *home purchase plan* or variation he wishes to enter into.
- (3) A *firm* may comply with (1) and (2) by providing an *offer document* if this can be done as quickly as providing a financial information statement.

5.8.1A

R

A *firm* need not provide a financial information statement:

- (1) in relation to a *direct deal*; or

		<div><div>(2) if the <i>customer</i> refuses to disclose key information (for example, in a telephone conversation, his name or a communication address) or where the <i>customer</i> is not interested in pursuing the enquiry; or</div><div>(3) if the <i>firm</i> does not wish to do business with the <i>customer</i>.</div></div>
5.8.1B	R	If the <i>firm</i> chooses not to give a financial information statement in the circumstances set out in ■ MCOB 5.8.1A R, where it has given advice on a <i>direct deal</i> , the <i>firm</i> must give the <i>customer</i> a written record of the advice.
5.8.2	G	In ensuring that the <i>customer</i> is provided with an appropriate financial information statement, a <i>firm</i> need not provide another when one that remains appropriate has already been provided for that particular <i>home purchase plan</i> . If a financial information statement ceases to be appropriate, for example because the terms of the proposed plan are subsequently materially altered, a new appropriate statement must be provided.
5.8.3	G	The guidance on the timing of mortgage <i>illustrations</i> may be relevant (see ■ MCOB 5.5).
		Financial information statement: format
5.8.4	R	<div>A financial information statement must:</div> <div><div>(1) be personalised to reflect the <i>customer's</i> requirements;</div><div>(2) contain only the material prescribed or permitted in this section;</div><div>(3) contain that material in the order set out in this section; and</div><div>(4) present the material concisely, clearly and consistently.</div></div>
5.8.5	R	<div>A financial information statement, if not set out in a separate document, must be:</div> <div><div>(1) in a prominent place within the document and clearly identifiable as key information that the <i>customer</i> should read; and</div><div>(2) separate from the other content of the document in which it is included.</div></div>
5.8.6	G	The guidance on the content, order and format of <i>illustrations</i> may be relevant (see ■ MCOB 5.6.4 G).
		Financial information statement: content
5.8.7	R	<div>A financial information statement must contain:</div> <div><div>(1) a prominent Key facts logo at the top of the statement;</div><div>(2) the term of the <i>home purchase plan</i>;</div></div>

- (3) the overall cost of the plan, comprising:
 - (a) the purchase price of the property;
 - (b) the deposit payable;
 - (c) the amount of the plan required;
 - (d) the amount of any *fees* added to the plan;
 - (e) the total amount payable; and
 - (f) the amount the *customer* must pay per £1 provided under the plan;
- (4) details of the payments the *customer* must make, including:
 - (a) the assumed start date;
 - (b) all rental rates that will apply;
 - (c) when the rental rates will apply and for how long;
 - (d) for each rental rate, the number, frequency and amount of the periodic payments that will apply;
 - (e) in relation to the first periodic payment, the amount of the purchase payment and of the rental payment;
 - (f) the amount of any insurance rent payments;
 - (g) a summary total; and
 - (h) details of when the summary total will change.

5.8.8 **R** A financial information statement may contain a figure equivalent to an *APR* after the amount the *customer* must pay per £1 provided under the *home purchase plan*. A *firm* must use an approach equivalent to the *APR rules* when calculating an *APR* equivalent.

5.8.9 **G** See the *Key facts logo provisions* for further requirements regarding the use of the *Key facts logo* and the location of specimens.

5.8.10 **G** The details of the rental rate charged should be based on information available to a *firm* at the time of producing the financial information statement. For example, if a rental rate cannot be ascertained at that time because it is based on a fluctuating rate of interest, a *firm* should base the information on the current fluctuating rate.

Opportunity to consider pre-application disclosure

5.8.11 **R** A *firm* must ensure that the *customer* has had a reasonable opportunity to consider the financial information statement and risks and features statement before committing the *customer* to an application.

Message to be given when providing information on home purchase plans

5.8.12 **R** (1) Except in the circumstances in (2), whenever a *firm* provides a *customer* with information specific to the amount of finance to be provided on a particular *home purchase plan* following an assessment

- of the *customer's* needs and circumstances in order to comply with ■ MCOB 4.10.5D R, it must give, clearly and prominently, the following information:
- (a) the same information on the *firm's* product range as is required by ■ MCOB 4.4A.1R (1), ■ MCOB 4.4A.2 R and ■ MCOB 4.4A.4R (1) (as applied in relation to *home purchase plans* by ■ MCOB 4.10.3A R); and
 - (b) that the *customer* has the right to request a financial information statement for any *home purchase plan* which the *firm* is able to offer the *customer*.
- (2) A *firm* need not give the information in (1) if it has previously given that information in compliance with this *rule* within the last ten *business days*.

Message to be given when customer requests an execution-only sale

5.8.13

R

Whenever, as part of an *execution-only sale* (or potential *execution-only sale*), a *customer* provides a *firm* with the information in ■ MCOB 4.10.9D R (Execution-only sales) (see ■ MCOB 4.10.9B R and ■ MCOB 4.10.9C G) the *firm* must inform the *customer*, clearly and prominently, unless the *firm* has previously given this information in compliance with this *rule* within the last ten *business days*, that the *customer* has the right to request a financial information statement for any *home purchase plan* which the *firm* is able to offer the *customer*.

5.9 Pre-sale disclosure for regulated sale and rent back agreements

Pre-sale disclosure

5.9.1

R

- (1) A *firm* must, as soon as a *customer* expresses an interest in becoming a *SRB agreement seller*, ensure that the disclosures and warnings set out in (1A) are made to the *customer*, both orally and confirmed in writing, and he is given an adequate opportunity to consider them. The *firm* must not demand or accept any fees, charges or other sums from the *customer*, or undertake any action that commits the *customer* in any way to entering into a specific agreement, until:
- (a) the written pre-offer document that is required by ■ MCOB 6.9.3 R has been provided to the *customer*; and
 - (b) the written offer document for signing (Stage Two) that is required by ■ MCOB 6.9.10R (1) has been returned to the *firm* duly signed by the *customer*.
- (1A) The disclosures and warnings referred to in (1) are the following:
- (a) where a valuation of the property that is the subject matter of the *regulated sale and rent back agreement* has already been carried out in accordance with ■ MCOB 2.6A.12 R, a statement of its market value or, if a valuation of the property has not yet been carried out, the price or value of the property on which the proposed *regulated sale and rent back agreement* would be based (estimated if necessary);
 - (b) [deleted]
 - (c) any fees, charges or retentions that the *firm* will deduct from the purchase price for the property, net of any fees or charges otherwise payable, and whether there are any fees, charges or other sums that are payable to any *SRB intermediary* that is involved in the proposed transaction or to a third party;
 - (d) the purchase price that the *firm* is prepared to pay the *SRB agreement seller* for the property, net of any fees, charges or retentions;
 - (e) the percentage of the figure in (a) for the market value of the property that the figure in (d) for the purchase price represents;
 - (ea) that the *SRB agreement seller* should in his own best interests independently seek whatever information he can on the market value of his property, as explained in the *FCA consumer factsheet* provided to the *customer*, before proceeding with the proposed transaction and how and from where information on its value may be available;

- (f) brief details of the main terms of the tenancy under the proposed *regulated sale and rent back agreement*, including its type, the letting period including the fixed term and the security of tenure the *SRB agreement seller* (or trust beneficiary or related person) will be given under it, an explanation that the seller (or trust beneficiary or related person) cannot be evicted unless the *SRB agreement provider* obtains a possession order from the court and an explanation of the seller's (or trust beneficiary's or related person's) ability to terminate the tenancy;
 - (g) [deleted]
 - (h) [deleted]
 - (i) a prominent warning that once the fixed term under (f) expires, the *SRB agreement seller* and his family may be required to leave the property;
 - (ia) where the *SRB agreement seller* is to be given an option under the proposed agreement to buy back the property at some future date from the *SRB agreement provider*, a statement confirming that this is the case, together with details of the option, including how it may be exercised and any restrictions such as time limits that will apply to it, and a clear explanation as to how the repurchase price is to be determined;
 - (j) the initial rent due under the proposed agreement;
 - (k) the circumstances in which the rent in (j) can be increased or changed in any way under the terms of the tenancy agreement;
 - (l) the risks associated with the transaction from the *SRB agreement seller's* perspective, including in particular:
 - (i) that failure to abide by the terms of the tenancy may result in the loss of the right to occupy the property; and
 - (ii) that failure to obtain legal or professional advice may mean his interests are not fully protected;
 - (m) whether there are any other features or restrictions in the *regulated sale and rent back agreement* which the *SRB agreement seller* would reasonably need to know about for the purpose of making an informed judgment about the merits of entering into the proposed agreement;
 - (n) information on what the *SRB agreement seller* should do if he wishes to make a complaint against the *firm* arising out of or in connection with the proposed *regulated sale and rent back agreement*, including provision of an address and phone number at which the *firm* may be contacted should the customer wish to pursue a complaint and that if he cannot settle his complaint with the *firm*, that he may be entitled to refer it to the *Financial Ombudsman Service*; and
 - (o) information on the circumstances in which the *SRB agreement seller* might be entitled to compensation under the Financial Services Compensation Scheme, depending on the type of business and the circumstances of the claim, and, if so, details of the relevant coverage.
- (2) The *firm* must make the written disclosures and warnings specified in (1) to the *SRB agreement seller* in a clear, fair and not misleading way

before he enters into the proposed *regulated sale and rent back agreement* and in doing so must ensure that:

- (a) the information is set out in the same order as set out in (1);
- (b) the disclosures and warnings are made in a separate and standalone document; and
- (c) the disclosures and warnings are accompanied by a prominent written statement from the *firm* drawing the *SRB agreement seller's* attention to the importance of the information.

- (3) In making the disclosures in writing to the *SRB agreement seller* that are required by (1) and (1A), the *firm* must make prominent use of the key facts logo in accordance with ■ GEN 5.1 (Application and purpose), followed by the text "about this sale and rent back agreement".

Compliance with the pre-sale disclosure requirement

5.9.1A

G

A *firm* may comply with the requirement in ■ MCOB 5.9.1 R (Pre-sale disclosure) for disclosures and warnings to be confirmed in writing by providing the potential *SRB agreement seller* with the written pre-offer document that is required by ■ MCOB 6.9.3 R (Written pre-offer document: Stage One) if this can be done as quickly as providing the pre-sale disclosures, provided that (in accordance with ■ MCOB 5.9.1 R) the *firm* does not demand or accept any fees, charges or other sums from the *customer* or undertake any action that commits the *customer* to the proposed *regulated sale and rent back agreement* until:

- (1) the written pre-offer document that is required by ■ MCOB 6.9.3 R has been provided to the *customer*; and
- (2) the written offer document for signing (Stage Two) that is required by ■ MCOB 6.9.10R (1) has been returned to the *firm* duly signed by the *customer*.

Information on valuations and rental values

5.9.1B

R

Where the potential *SRB agreement seller* has not commissioned his own valuation of the property, a *firm* must ensure that he realises that there are other possible sources of information on the property's value that are available to him, including local estate agents, local newspapers which carry advertisements for the sale of residential property in the *customer's* locality and on-line sites where details of recent property sales in the locality may be accessed.

5.9.1C

R

A *firm* must ensure that the *SRB agreement seller* realises that there are other possible sources of information on the appropriate rental value for the property available to him, including local estate agents, local newspapers and on-line sites which carry advertisements for the rental of residential property in the *customer's* locality.

5.9.1D

G

There is no requirement for the property to be valued before making the pre-sale disclosures. However, ■ MCOB 6.9.2 R requires that an independent valuation of the property be carried out before the provider supplies the

customer with the written pre-offer document at Stage One (see ■ MCOB 6.9.3 R).

Disclosure of relevant features or restrictions

5.9.1E

G

Examples of features of a *regulated sale and rent agreement* that a *SRB agreement seller* would reasonably need to know about (see ■ MCOB 5.9.1R (1A)(m)) would include an arrangement under which the seller is to receive from the *SRB agreement provider* a refund of some agreed percentage of the discount (on the market value of the property) that was reflected in the sale price under the *regulated sale and rent back agreement* after the end of the agreed letting term. Should any restrictions or the payment of any costs or fees be attached to the seller's entitlement to exercise such an option, these should be explained clearly.

Revised pre-sale disclosures

5.9.1F

R

Where a *firm* has already provided the required pre-sale disclosures and the terms for the proposed *regulated sale and rent back agreement* are subsequently materially altered, the *firm* must ensure that, at the *firm's* option, either:

(1)

the pre-sale disclosures are re-issued to the *customer*, incorporating the agreed amendment; or

(2)

the agreed amendment is incorporated in the written pre-offer document at Stage One (see ■ MCOB 6.9.3 R).

5.9.1G

G

What constitutes "materially altered" requires consideration of the facts of each individual case. For example, a change in the proposed purchase or valuation price of the property should normally be regarded as material, as would the introduction of an additional charge applying to the *regulated sale and rent back agreement* when it did not previously.

Records of pre-sale disclosure

5.9.2

R

A *firm* must keep a record of the disclosures and warnings made to the *SRB agreement seller* under ■ MCOB 5.9.1 R for a period of:

(1)

one year after the end of the fixed term of the tenancy under the *regulated sale and rent back agreement*; or

(2)

five years from the date of the disclosures and warnings;

whichever is the longer.

Initial disclosure information to SRB agreement sellers: unauthorised SRB agreement providers

5.9.3

R

(1) A *SRB intermediary* must ensure that, on first making contact with a prospective *SRB agreement seller*, whether or not he is the *firm's customer*, who is proposing to enter into a *regulated sale and rent back agreement* with an *unauthorised SRB agreement provider*, it provides him with the written warning in (2) before he enters into any such agreement.

- (2) The warning in (1) is that:
- (a) the agreement provider is not authorised or regulated by the *FCA*, and that key protections under the *regulatory system* will not apply; and
 - (b) the provider is not subject to the jurisdiction of the *Financial Ombudsman Service*, and that the *SRB agreement seller* will not be entitled to refer complaints against the provider to the *Financial Ombudsman Service*.

Initial disclosure information to unauthorised SRB agreement providers

5.9.4

R

- (1) A *SRB intermediary* must ensure that, on first making contact with a *customer* who is both an individual and an *unauthorised SRB agreement provider*, when it anticipates giving personalised information or advice on a *regulated sale and rent back agreement*, it must provide him with the written warning in (2).
- (2) The warning in (1) is that a *regulated sale and rent back agreement* is a complex legal arrangement and that expert independent legal advice should be obtained before entering into any such agreement.

5.9.5

G

A *person* may enter into a *regulated sale and rent back agreement* as agreement provider without being regulated by the *FCA* (or an *exempt person*) if the *person* does not do so by way of business. However, a *SRB intermediary* should at all times be conscious of its obligations under *Principle 6* (Customers' interests). Should the *firm* have any reason to believe or entertain any suspicions that the *SRB agreement seller* may be proposing to enter into a *regulated sale and rent back agreement* with an *unauthorised SRB agreement provider* notwithstanding that the provider appears to be doing so by way of business and therefore appears to require authorisation under the *Act*, the *firm* should warn the seller that he should not be proceeding with the transaction.

Uncertainty whether the arrangements constitute a sale and rent back agreement

5.9.6

R

- (1) If, at the point that the required pre-sale disclosures must be provided to a potential *SRB agreement seller*, a *firm* is uncertain whether the arrangement will qualify as a *regulated sale and rent back agreement*, the *firm* must:
 - (a) provide the required pre-sale disclosures on the basis that the arrangement might constitute a *regulated sale and rent back agreement*; or
 - (b) seek to obtain from the potential seller information that will enable the *firm* to ascertain whether the contract will qualify as a *regulated sale and rent back agreement*.
- (2) Where (1)(b) applies, pre-sale disclosures must be provided, unless, on the basis of information the potential seller provides, the *firm* has reasonable evidence that the contract would not qualify as a *regulated sale and rent agreement*.

5.9.7

G

If the *firm* has reasonable evidence that the contract is not a *regulated sale and rent back agreement*, for example where at least 40% of the property is not going to be occupied as a dwelling by the seller or his family, and has not provided the required pre-sale disclosures and the *firm* subsequently concludes that the contract does qualify as a *regulated sale and rent back agreement*, there is no requirement to provide separate pre-sale disclosures at the time the *firm* reaches that conclusion. However, the requirement to integrate the pre-sale disclosures into the written pre-offer document at Stage One that is required by ■ MCOB 6.9.3 R will apply.

Record of sale and rent back providers

- 5.9.8
- R
- (1) A *SRB intermediary* must for each *regulated sale and rent back agreement* in relation to which it carries on *regulated sale and rent back mediation activity* keep a record of the contact details of the provider that enters into or is proposed to enter into the agreement, making it clear whether the provider is a *SRB agreement provider* or an *unauthorised SRB agreement provider*.

(2) The record in (1) must be retained for a period of one year, or one year from the end of the fixed term of the tenancy under the *regulated sale and rent back agreement*, whichever is the longer.

**The mortgage illustration: table of contents, prescribed text and
prescribed section headings and subheadings.**

This annex consists only of one or more forms. Forms are to be found through the following address:

The mortgage illustration MCOB 5 Annex 1

Chapter 5A

MCD Pre-application disclosure



5A.1 Application and purpose

- 5A.1.1

R

This chapter applies to a *firm* that is an *MCD mortgage lender* or *MCD mortgage credit intermediary*.
- 5A.1.2

G

(1)

■ MCOB 5A amplifies *Principle 6* and *Principle 7*.

(2)

The purpose of ■ MCOB 5A is to ensure that, before a consumer submits an application for a particular *MCD regulated mortgage contract*, they are supplied with information that makes clear:

(a)

its features, any *linked deposits*, any *linked borrowing* and any *tied products*; and

(b)

the price that the *consumer* will be required to pay under that contract, to enable the *consumer* to make a well-informed purchasing decision.

(3)

■ MCOB 5A requires information to be disclosed in a consistent way to facilitate comparison between products of different providers.

5A.2 Applying for an MCD regulated mortgage contract

- 5A.2.1 **R** An *MCD mortgage lender* must not enter into an *MCD regulated mortgage contract*, or agree to do so, with a *consumer* unless the *consumer* has submitted an application for that particular *MCD regulated mortgage contract*.
- 5A.2.2 **G**
- (1) The purpose of **MCOB 5A.2.1 R**, along with other *rules* in this chapter, is to ensure that the *consumer* has received details of the particular *MCD regulated mortgage contract* for which they have applied, and has had the opportunity to satisfy themselves that it is appropriate for them.
 - (2) The application should identify the type of interest rate, rate of interest and the *MCD mortgage lender* at the point it is submitted by the *consumer*.



5A.3 Information on MCD regulated mortgage contracts: general

Accuracy

- 5A.3.1 R A *firm* that is an *MCD mortgage credit intermediary* must take reasonable steps to ensure that an *ESIS* which it issues, or which is issued on its behalf, other than that provided by an *MCD mortgage lender* is accurate.
- 5A.3.2 R It is the responsibility of the *firm* to ensure compliance with ■ MCOB 5A.3.1 R. However, where a *firm* can show that it was reasonable for it to rely on information provided by another *person*, other than the *MCD mortgage lender*, that an *ESIS* was accurate, it may be able to rely on ■ MCOB 2.5.2 R, if this turns out not to be the case.

ESISs where consumer is ineligible

- 5A.3.3 R A *firm* must not issue an *ESIS* to a *consumer* for an *MCD regulated mortgage contract* for which the *consumer* is clearly ineligible on the basis of the information that the *firm* has obtained from the *consumer* or the *MCD mortgage lender's* lending criteria.
- 5A.3.4 G The purpose of ■ MCOB 5A.3.3 R is not to require a *firm* to ascertain whether a *consumer* is eligible for a particular *MCD regulated mortgage contract* before providing an *ESIS*. Instead, the purpose is to ensure that the *firm* takes into account the information it has obtained from the *consumer* before providing an *ESIS* to the *consumer*.

Explaining the importance of an ESIS

- 5A.3.5 R In providing an *ESIS* to a *consumer*, a *firm* must explain to the *consumer* the importance of reading the *ESIS* and understanding it.
- 5A.3.6 G A *firm* may satisfy ■ MCOB 5A.3.5 R by drawing the *consumer's* attention orally to the importance of reading and understanding the *ESIS*. For example, in a face-to-face meeting, or by referring to its importance in a covering letter or electronic communication, or other written information that accompanies the *ESIS*.

Form of an ESIS

- 5A.3.7** **R** Any *ESIS* provided to a *consumer* by a *firm* must be in a *durable medium*.
[Note: article 14(2) of the *MCD*]

Provision of information

- 5A.3.8** **G** When providing information on an *MCD regulated mortgage contract*, a *firm* should bear in mind that the information must be given in accordance with **■ MCOB 2.5A.1 R** (The customer's best interests).

- 5A.3.9** **G** **■ MCOB 5A** places no restrictions on the provision of information that is not specific to the amount the *consumer* wants to borrow. For example, marketing literature, including generic mortgage repayment tables or graphs illustrating the benefits of making a regular overpayment on a flexible mortgage. However, such literature may constitute a *financial promotion* and be subject to **■ MCOB 3A** (Financial promotions and communications with customers).

Messages to be given with information on MCD regulated mortgage contracts

- 5A.3.10** **R**
- (1) Whenever a *firm* provides a *consumer* with information specific to the amount that the *consumer* wants to borrow on a particular *MCD regulated mortgage contract*, following an assessment of the *consumer's* needs and circumstances to comply with **■ MCOB 4.7A.2 R**, it must give, clearly and prominently, the following information:
 - (a) the same information on the *firm's* product range as is required by **■ MCOB 4.4A.1 R**, **■ MCOB 4.4A.2 R** and **■ MCOB 4.4A.4R (1)** (which require firms to provide information about limitations on the range of products they offer); and
 - (b) that the *consumer* has the right to request an *ESIS* for any *MCD regulated mortgage contract* which the *firm* is able to offer the *consumer*.
 - (2) A *firm* need not give the information in (1) if it has previously given that information in compliance with this *rule* within the last ten *business days*.

- 5A.3.11** **G** To demonstrate compliance with **■ MCOB 5A.3.10R (1)**, a *firm* may wish to consider, for example, doing one or more of the following actions:

- (1) giving the messages to the *consumer* in a *durable medium*;
- (2) building the requirements into the *firm's* training of staff, as evidenced by its training and compliance manuals;
- (3) insert appropriate prompts into paper-based or automated sales systems;
- (4) having procedures to monitor compliance by its staff with that *rule*.

What is required in each case will depend on all the circumstances.

		Messages to be given when consumer requests an execution-only sale
5A.3.12	R	<p>(1) Whenever, as part of an <i>execution-only sale</i> (or potential <i>execution-only sale</i>), a <i>consumer</i> provides a <i>firm</i> with the information in ■ MCOB 4.8A.14R (1), ■ MCOB 4.8A.14R (2) or ■ (3), the <i>firm</i> must inform the <i>consumer</i>, clearly and prominently, that the <i>consumer</i> has the right to request an <i>ESIS</i> for any <i>MCD regulated mortgage contract</i> which the <i>firm</i> is able to offer the <i>consumer</i>.</p> <p>(2) A <i>firm</i> need not give the information in (1) if it has previously given that information in compliance with this <i>rule</i> within the last ten <i>business days</i>.</p>
		Record keeping
5A.3.13	R	A <i>firm</i> must make an adequate record of each <i>ESIS</i> that it issues to a <i>consumer</i> under ■ MCOB 5A.4.1 R where the <i>consumer</i> applies for that particular <i>MCD regulated mortgage contract</i> .
5A.3.14	R	The record required by ■ MCOB 5A.3.13 R must be retained for one year from the date of the application made by the <i>consumer</i> .
5A.3.15	R	■ MCOB 5A.3.14 R does not require a <i>firm</i> to keep records of <i>ESISs</i> that are issued to a <i>consumer</i> when the <i>consumer</i> does not apply to enter into that particular <i>MCD regulated mortgage contract</i> .
5A.3.16	G	<p>The record maintained under ■ MCOB 5A.3.13 R should contain or refer to matters such as:</p> <p>(1) the date on which the <i>ESIS</i> was provided to the <i>consumer</i>;</p> <p>(2) the date of the application made by the <i>consumer</i>; and</p> <p>(3) details of the medium through which the <i>ESIS</i> was provided.</p>

5A.4 Provision of a European Standardised Information Sheet (ESIS)

Timing

5A.4.1

R

- (1) A firm must provide the consumer with an *ESIS* for an *MCD regulated mortgage contract* before the consumer submits an application for that *MCD regulated mortgage contract* to an *MCD mortgage lender*, unless an *ESIS* for that *MCD regulated mortgage contract* has already been provided.
- (2) Except in the circumstances in ■ [MCOB 5A.4.2 R](#), a firm must provide the consumer with an *ESIS* for an *MCD regulated mortgage contract* when any of the following occurs, unless an *ESIS* for that *MCD regulated mortgage contract* has already been provided:
 - (a) the firm advises the particular consumer to enter into that *MCD regulated mortgage contract*, then an *ESIS* must be provided at the point the advice is given, unless the advice is given by telephone, in which case the firm must provide an *ESIS* within five business days; or
 - (b) the consumer requests an *ESIS* for that *MCD regulated mortgage contract*, unless the firm is aware that it is unable to offer that regulated mortgage contract to them; or
 - (c) as part of an *execution-only sale* (or potential *execution-only sale*) the consumer has provided the firm with the information in ■ [MCOB 4.8A.14R \(1\)](#) to ■ [MCOB 4.8A.14R \(3\)](#) to indicate which *MCD regulated mortgage contract* they wish to enter into.
- (3) Except in the circumstances in ■ [MCOB 5A.4.2 R](#), and unless an *ESIS* for that *MCD regulated mortgage contract* has already been provided, a firm must provide the consumer with an *ESIS* for an *MCD regulated mortgage contract*:
 - (a) without undue delay after the consumer has given the necessary information on his needs, financial situation and preferences under ■ [MCOB 11.6.5R \(2\)](#) (assessment of affordability) and ■ [MCOB 11.6.34R \(2\)](#) (alternative provisions for loans with high net worth mortgage customers); and
 - (b) in good time before the consumer is bound by any *MCD regulated mortgage contract* or offer.

[Note: article 14(1) of the MCD]

5A.4.2	R	<p>A <i>firm</i> need not provide an <i>ESIS</i>:</p> <ul style="list-style-type: none"> (1) in relation to a <i>direct deal</i>; (2) if the <i>consumer</i> refuses to disclose key information (for example, in a telephone conversation, his name or a communication address) or where the <i>consumer</i> is not interested in pursuing the enquiry; or (3) if the <i>firm</i> does not wish to do business with the <i>consumer</i>.
5A.4.3	R	<p>If the <i>firm</i> chooses not to give an <i>ESIS</i> in the circumstances in ■ MCOB 5A.4.2R (1), where it has given advice on a <i>direct deal</i>, the <i>firm</i> must give the <i>consumer</i> a written record of the advice.</p>
5A.4.4	G	<p>In the circumstances in ■ MCOB 5A.4.2R (2), the <i>rule</i> in ■ MCOB 5A.4.1R (1) will mean that the <i>consumer</i> may not make an application for an <i>MCD regulated mortgage contract</i>, as an <i>ESIS</i> has not been provided.</p>
5A.4.5	G	<p>The effect of ■ MCOB 5A.2.1 R and ■ MCOB 5A.4.1R (1) is that, if a <i>consumer's</i> application to enter into an <i>MCD regulated mortgage contract</i> with a <i>MCD mortgage lender</i>, made through an <i>MCD credit intermediary</i>, is subsequently passed by that <i>firm</i> to another <i>MCD mortgage lender</i>, then the <i>firm</i> must ensure that the application is amended and the <i>consumer</i> is provided with an <i>ESIS</i> for the other <i>MCD mortgage lender's MCD regulated mortgage contract</i> before the application is passed to the other <i>MCD mortgage lender</i>.</p>
5A.4.6	G	<p>If a <i>firm</i> chooses to issue an <i>offer document</i> in addition to an <i>ESIS</i>, it will need to comply with MCOB 6A.3.1R (MCD Mortgages: content of the offer document).</p>
5A.4.7	R	<p>A <i>firm</i> must not undertake any action that commits the <i>consumer</i> to an application (including accepting product-related fees for the <i>MCD regulated mortgage contract</i> concerned) until the <i>consumer</i> has had the opportunity to consider an <i>ESIS</i>.</p>
5A.4.8	G	<p>The effect of ■ MCOB 5A.4.1R (1) and ■ MCOB 5A.4.7 R is that a <i>consumer</i> will be deemed to be committed to an application if, for example, they pay a product-related fee (including a valuation fee) or provides electronic or verbal authority to process an application. It is not necessary for a <i>consumer</i> to provide an <i>MCD mortgage lender</i> with a completed application form to submit an application for an <i>MCD regulated mortgage contract</i>.</p>
5A.4.9	R	<p>The <i>firm</i> dealing directly with the <i>consumer</i> is responsible for ensuring compliance with the content and timing requirements, ie, an <i>MCD mortgage lender</i> is not responsible for ensuring that a <i>consumer</i> has received an <i>ESIS</i> before accepting an application from an <i>MCD mortgage credit intermediary</i>.</p>
5A.4.10	R	<p>Where a <i>firm</i> has already provided an <i>ESIS</i> under ■ MCOB 5A.4.1 R and the terms for the proposed <i>regulated mortgage contract</i> are subsequently materially altered or different, the <i>firm</i> must ensure that the <i>consumer</i> is</p>

		provided with a revised <i>ESIS</i> , before acting on the amendment, when the change occurs at the point that a <i>consumer</i> submits an application for the <i>MCD regulated mortgage contract</i> .
5A.4.11	G	What constitutes “materially altered” or “different” requires consideration of the facts of each individual case. For example, a change of product such that the underlying terms and conditions of the <i>MCD regulated mortgage contract</i> have changed should normally be regarded as material or different, as would an additional charge, such as a <i>higher lending charge</i> , applying to the <i>MCD regulated mortgage contract</i> when it did not previously.
		Uncertainty whether a mortgage is regulated
5A.4.12	R	<p>(1) If, at the point an <i>ESIS</i> must be provided under ■ MCOB 5A.4.1 R, a <i>firm</i> is uncertain whether the contract will be an <i>MCD regulated mortgage contract</i>, the <i>firm</i> must:</p> <ul style="list-style-type: none"> (a) provide an <i>ESIS</i>; or (b) seek to obtain from the <i>consumer</i>, information that will enable the <i>firm</i> to ascertain whether the contract will be an <i>MCD regulated mortgage contract</i>. <p>(2) Where (1)(b) applies, an <i>ESIS</i> must be provided, unless, on the basis of the information provided by the <i>consumer</i>, the <i>firm</i> has reasonable evidence that the contract is not an <i>MCD regulated mortgage contract</i>.</p>
		Providing an ESIS without delay in response to a customer request
5A.4.13	G	Where the <i>consumer</i> requests an <i>ESIS</i> for a particular <i>MCD regulated mortgage contract</i> (see ■ MCOB 5A.4.1R (2)(b)), the purpose of ■ MCOB 5A.4.14 R, ■ MCOB 5A.4.15 R and ■ MCOB 5A.4.16 G is to ensure that the <i>consumer</i> receives an <i>ESIS</i> without unnecessary delay. These requirements do not restrict the information that the <i>firm</i> may obtain from the <i>consumer</i> after it has provided the <i>consumer</i> with an <i>ESIS</i> .
5A.4.14	R	<p>In meeting a request for an <i>ESIS</i> under ■ MCOB 5A.4.1R (2)(b), the <i>firm</i> must not delay the provision of the <i>ESIS</i> by requesting information other than:</p> <ul style="list-style-type: none"> (1) such information as is necessary to complete the <i>ESIS</i> in accordance with ■ MCOB 5A.5.2 R and ■ MCOB 5A.5.3 R, if the <i>firm</i> does not already know it; (2) where the <i>firm</i> acts in accordance with ■ MCOB 5A.4.12R (2), such information as is necessary to ascertain whether or not the contract will be an <i>MCD regulated mortgage contract</i>; (3) where the interest rates, payments or any other terms and conditions to be included in the <i>ESIS</i> are dependent on the <i>consumer's</i> credit record, such information as is necessary to produce an <i>ESIS</i>; (4) where the <i>firm</i> includes a quotation for any <i>tied products</i> or compulsory insurance in the <i>ESIS</i>, such information as is necessary to produce those quotations;

5A.4.15

R

Where ■ MCOB 5A.4.14R (3) applies:

- (5) any of the following information where it affects the availability of the *MCD regulated mortgage contract* that the *consumer* has requested information on, or affects the information to be included in, the *ESIS*:
 - (a) whether the *consumer* is a first-time buyer, a subsequent buyer moving home or entering into an *MCD regulated mortgage contract* without moving home;
 - (b) whether the *MCD regulated mortgage contract* is required for a right-to-buy purchase or for a shared ownership purchase;
 - (c) the location of the property to be purchased, where known; and
 - (d) whether the terms are dependent on a third-party guarantee.

5A.4.16

G

A *firm* may use information that it already holds on the *consumer* for the purpose of producing the *ESIS* (for example, if it already holds the *consumer's* credit record), providing the use of this information does not delay the *consumer* receiving the *ESIS* and the *consumer's* consent is obtained, where appropriate.

5A.4.17

R

If, on the basis of the information obtained from the *consumer* or, on the basis of information that the *firm* already holds on the *consumer*, the *firm* would do business with the *consumer* but not on the terms requested, the *firm* may provide the *consumer* with an *ESIS* for a different *MCD regulated mortgage contract*, if it chooses to do so.



5A.5 Content of European Standardised Information Sheets (ESISs)

Content, order, format etc

- 5A.5.1 G ■ MCOB 5A.5 sets out the required content of an *ESIS* provided to a *consumer* by a *firm*.
- 5A.5.2 R An *ESIS* provided to a *consumer* must follow the form and contain the material in ■ MCOB 5A Annex 1 R.
- 5A.5.3 R A *firm* must:

(1) reproduce the text in ■ MCOB 5A Annex 1 R in the *ESIS*;

(2) replace the indications between square brackets with the corresponding information;

(3) complete the *ESIS* in accordance with ■ MCOB 5A Annex 2;

(4) wherever the words “where applicable” are indicated:

(a) provide the information required, if it is relevant to the *MCD regulated mortgage contract*; or

(b) where the information is not relevant to the *MCD regulated mortgage contract*, delete the information in question or the entire section (for example, in cases where the section is not applicable);

(5) if it deletes an entire section, adjust the numbering of the *ESIS* sections accordingly;

(6) provide the *ESIS* in a single document;

(7) ensure that the font used is clearly readable;

(8) use bold font, shading or larger font sizes for the information elements to be highlighted; and

(9) highlight all applicable risk warnings.
- [Note: article 14(2) and Annex II, Part A, preamble of the *MCD*]
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5A.5.4

G

- (1) The *ESIS* can contain the *MCD mortgage lender's* or *MCD mortgage credit intermediary's* logo and other 'brand' information, so long as the requirements of ■ MCOB 5A.5 are satisfied.
- (2) The *ESIS* can contain page numbers and other references that aid understanding, record keeping and identification of a particular *ESIS*, such as the date and time it is produced or a unique reference number, provided these do not detract from the content of the *ESIS*.
- (3) *Firms* are reminded of their general obligation for communications to *consumers* to be clear, fair and not misleading. Sections of the *ESIS* may be split across pages where it is impractical to do otherwise. When splitting sections, *firms* should split the section at an appropriate place, for example at the end of a sub-section, and not split tables or risk warnings.

Content: required information

5A.5.5

R

The *ESIS* provided to *consumers* must:

- (1) contain only the material prescribed in ■ MCOB 5A.5 and no other material; and
- (2) be in a document separate from any other material that is provided to the *consumer*.

5A.5.6

G

A *firm* should not illustrate more than one *MCD regulated mortgage contract* in the same *ESIS*, for example by using one *ESIS* to compare alternative products, repayment methods or repayment terms.

5A.5.7

G

Firms are reminded that they must comply with MCOB 7.6.5R in respect of the release of loan instalments after the start of the *MCD regulated mortgage contract*.

Content: retirement interest-only mortgage

5A.5.8

R

For a *retirement interest-only mortgage* where, in accordance with ■ MCOB 1.2.16R(1), the *firm* elects to provide an *ESIS* instead of an *illustration*:

- (1) the *ESIS* may diverge from the requirements of ■ MCOB 5A where it is necessary to do so to describe a *retirement interest-only mortgage*, and
- (2) the *firm* must also comply with ■ MCOB 5.4.25R, ■ MCOB 5.4.26R and ■ MCOB 5.6.6R as though a reference to an *illustration* is a reference to an *ESIS*.

5A.6 Other information

- 5A.6.1** R
- (1) A *firm* may provide information to the *consumer* in addition to that contained in the *ESIS*.
 - (2) A *firm* must provide the additional information in (1) in a separate document.
 - (3) A *firm* may annexe the separate document in (2) to the *ESIS*.

[Note: article 14(8) of the *MCD*]

- 5A.6.2** R
- (1) Where a *firm* issues an *ESIS* in relation to an *MCD lifetime mortgage*, the *firm* must simultaneously issue the *consumer* with a document in a *durable medium* containing the statements and warnings set out in the following rules, as modified by (2) below, as if the mortgage was an *MCD exempt lifetime mortgage*: ■ MCOB 9.4.33 R, ■ MCOB 9.4.35 R, ■ MCOB 9.4.62 R, and ■ MCOB 9.4.63 R only.
 - (2) The document issued under (1) must contain the prescribed section headings but need not contain section numbers or otherwise comply with the format of an *illustration*.

- 5A.6.3** G
- Firms* are reminded of their general obligation for communications to *customers* to be fair, clear and not misleading.

European Standardised Information Sheet (ESIS)

This annex belongs to ■ MCOB 5A.5.2 R

Introduction

This document was produced for [name of consumer] on [current date].

This document was produced on the basis of the information that you have provided so far and on the current financial market conditions.

The information below remains valid until [validity date], (where applicable) apart from the interest rate and other costs. After that date, it may change in line with market conditions.

(Where applicable) This document does not constitute an obligation for [name of creditor] to grant you a loan.

1. Lender

[Name]

[Telephone number]

[Geographical address]

(Optional) [Email address]

(Optional) [Fax number]

(Optional) [Web address]

(Optional) [Contact person/point]

(Where applicable, information as to whether advisory services are being provided:)

[(We recommend, having assessed your needs and circumstances, that you take out this mortgage. We are not recommending a particular mortgage for you. However, based on your answers to some questions, we are giving you information about this mortgage so that you can make your own choice.)]

2. (Where applicable) Credit intermediary

[Name]

[Telephone number]

[Geographical address]

(Optional) [Email address]

(Optional) [Fax number]

(Optional) [Web address]

(Optional) [Contact person/point]

(Where applicable [information as to whether advisory services are being provided]):

Introduction

[(We recommend, having assessed your needs and circumstances, that you take out this mortgage. We are not recommending a particular mortgage for you. However, based on your answers to some questions, we are giving you information about this mortgage so that you can make your own choice.)]

[Remuneration]

3. Main features of the loan

Amount and currency of the loan to be granted: [value][currency]

(Where applicable) This loan is not in pound sterling.

(Where applicable) The value of your loan in sterling could change.

(Where applicable) For example, if the value of sterling fell by 20% relative to [credit currency], the value of your loan would increase to [insert amount in sterling]. However, it could be more than this if the value of sterling falls by more than 20%.

(Where applicable) The maximum value of your loan will be [insert amount in sterling]. (Where applicable) You will receive a warning if the credit amount reaches [insert amount in sterling]. (Where applicable) You will have the opportunity to [insert right to renegotiate foreign currency loan or right to convert loan into [relevant currency] and conditions].

Duration of the loan: [duration]

[Type of loan]

[Type of applicable interest rate]

Total amount to be reimbursed (repaid):

This means that you will pay back [amount] for every [unit of the currency] borrowed.

(Where applicable) [This/Part of this] is an interest-only loan. You will still owe [insert amount of loan on an interest-only basis] at the end of the mortgage term.

(Where applicable) Value of the property assumed to prepare this information sheet: [insert amount]

(Where applicable) Maximum available loan amount relative to the value of the property [insert ratio] or Minimum value of the property required to borrow the illustrated amount [insert amount]

(Where applicable) [Security]

4. Interest rate and other costs

The annual percentage rate of charge (APRC) is the total cost of the loan expressed as an annual percentage. The APRC is provided to help you to compare different offers.

The APRC applicable to your loan is [APRC].

It comprises:

Interest rate [value in percentage or, where applicable, indication of a reference rate and percentage value of creditor's spread]

[Other components of the APRC]

Costs to be paid on a one-off basis

Introduction

(Where applicable) You will need to pay a fee to register the mortgage. [Insert amount of fee where known or basis for calculation.]

Costs to be paid regularly

(Where applicable) This APRC is calculated using assumptions regarding the interest rate.

(Where applicable) Because [part of] your loan is a variable interest rate loan, the actual APRC could be different from this APRC if the interest rate for your loan changes. For example, if the interest rate rose to [scenario as described in Part B], the APRC could increase to [insert illustrative APRC corresponding to the scenario].

(Where applicable) Please note that this APRC is calculated on the basis that the interest rate remains at the level fixed for the initial period throughout the duration of the contract.

(Where applicable) The following costs are not known to the lender and are therefore not included in the APRC: [Costs]

(Where applicable) You will need to pay a fee to register the mortgage.

Please make sure that you are aware of all other taxes and costs associated with your loan.

5. Frequency and number of payments

Repayment frequency: [frequency]

Number of payments: [number]

6. Amount of each instalment

[Amount] [currency]

Your income may change. Please consider whether you will still be able to afford your [frequency] repayment instalments if your income falls.

(Where applicable) Because [this/part of this] is an interest-only loan you will need to make separate arrangements to repay the [insert amount of loan on an interest-only basis] you will owe at the end of the mortgage term. Remember to add any extra payments you will need to make to the instalment amount shown here.

(Where applicable) The interest rate on [part of] this loan can change. This means the amount of your instalments could increase or decrease. For example, if the interest rate rose to [scenario as described in Part B], your payments could increase to [insert instalment amount corresponding to the scenario].

(Where applicable) The value of the amount you have to pay in sterling each [frequency of instalment] could change. (Where applicable) Your payments could increase to [insert maximum amount in sterling] each [insert period]. (Where applicable) For example, if the value of sterling fell by 20% relative to [credit currency], you would have to pay an extra [insert amount in sterling] each [insert period]. Your payments could increase by more than this.

(Where applicable) The exchange rate used for converting your repayment in [credit currency] to sterling will be the rate published by [name of institution publishing exchange rate] on [date] or will be calculated on [date] using [insert name of benchmark or method of calculation].

(Where applicable) [Details on tied savings products, deferred-interest loans]

7. (Where applicable) Illustrative repayment table

This table shows the amount to be paid every [frequency].

The instalments (column [relevant no]) are the sum of interest to be paid (column [relevant no]), where applicable, capital paid (column [relevant no]) and, where applicable, other costs (column

Introduction

[relevant no]]. [Where applicable] The costs in the other costs column relate to [list of costs]. Outstanding capital (column [relevant no]) is the amount of the loan that remains to be reimbursed (repaid) after each instalment.

[Table]

8. Additional obligations

The borrower must comply with the following obligations in order to benefit from the lending conditions described in this document.

[Obligations]

(Where applicable) Please note that the lending conditions described in this document (including the interest rate) may change if these obligations are not complied with.

(Where applicable) Please note the possible consequences of terminating at a later stage any of the ancillary services relating to the loan:

[Consequences]

9. Early repayment

You have the possibility (the right to) to repay this loan early, either fully or partially.

(Where applicable) [Conditions]

(Where applicable) Exit charge (Early repayment charge): [insert amount or, where not possible, the method of calculation]

(Where applicable) Should you decide to repay this loan early, please contact us to ascertain the exact level of the exit charge (early repayment charge) at that moment.

10. Flexible features

(Where applicable) [Information on portability/subrogation] You have the possibility to (the right to) transfer this loan to another [lender][or] [property]. [Insert conditions]

(Where applicable) You do not have the possibility to (the right to) transfer this loan to another [lender] [or] [property].

(Where applicable) Additional features: [insert explanation of additional features listed in Part B and, optionally, any other features offered by the lender as part of the credit agreement not referred to in previous sections].

11. Other rights of the borrower

You have [length of reflection period] after [point in time when the reflection period begins] to reflect before committing yourself to taking out this loan.

12. Complaints

If you have a complaint, please contact [insert internal contact point and source of information on procedure].

(Where applicable) Maximum time for handling the complaint [period of time]

(Where applicable) [If we do not resolve the complaint to your satisfaction internally,] you can also contact: [insert name of external body for out-of-court complaints and redress]

13. Non-compliance with the commitments linked to the loan: consequences for the borrower

[Types of non-compliance]

Introduction

[Financial and/or legal consequences]

Should you encounter difficulties in making your [frequency] payments, please contact us straight away to explore possible solutions.

(Where applicable) As a last resort, your home may be repossessed if you do not keep up with payments.

(Where applicable) 14. Additional information

(Where applicable) [Indication of the law applicable to the credit contract].

(Where the lender intends to use a language different from the language of the ESIS) Information and contractual terms will be supplied in [language]. With your consent, we intend to communicate in [language/s] during the duration of the credit agreement.

[Insert statement on right to be provided with or offered, as applicable, a draft credit agreement]

15. Supervisor

This lender is supervised by [Name(s), and web address(es) of supervisory authority/ies]

(Where applicable) This credit intermediary is supervised by [Name and web address of supervisory authority].

Instructions to complete the ESIS

5A

[Note: Annex II Part B of the MCD]

1.1	R	This Annex belongs to MCOB 5A.5.3R (3) .	
1.2	R	Where a <i>MCD regulated mortgage contract</i> is divided into more than one part, the <i>firm</i> must set out the required <i>ESIS</i> content in respect of each part.	
1.3	R	Unless otherwise specified, the sections referred to in this Annex are sections in the <i>ESIS</i> .	
1.4	R	Where the form includes the following words and phrases in round brackets:	
		(1)	"repaid" (in sections 3 and 7);
		(2)	"right to" (in sections 9 and 10);
		(3)	"early repayment charge" (in section 9);
			the <i>firm</i> may use that word or phrase instead of the one immediately before it.
		(4)	MCOB 5A Annex 2 , 5.7R(3), 9.1R(2), 11.2R(3) and 12.1R(2) explain this in more detail.
2	Section 'Introductory text'		
2.1	R	(1)	The <i>firm</i> must properly highlight the validity date.
		(2)	For the purpose of (1), the 'validity date' means the length of time the information, eg, the borrowing rate, contained in the <i>ESIS</i> will remain unchanged and will apply should the <i>MCD mortgage lender</i> grant the <i>MCD regulated mortgage contract</i> within this period of time.
		(3)	Where the determination of the applicable <i>borrowing rate</i> and other costs depends on the results of the selling of underlying bonds, the eventual <i>borrowing rate</i> and other costs may be different from those stated. In those circumstances only, the <i>firm</i> must stipulate that the validity date does not apply to the <i>borrowing rate</i> and other costs by adding the words: 'apart from the interest rate and other costs'.
3	Section '1. Lender'		
3.1	R	(1)	The <i>firm</i> must provide the name, telephone number and geographical address of the <i>MCD mortgage lender</i> .
		(2)	The information provided under (1) must be the contact information that the <i>consumer</i> may use for future correspondence.
3.2	G	The <i>firm</i> need not provide the <i>MCD mortgage lender's</i> email address, fax number, web address or contact person/point.	
3.3	R	[deleted]	

3.4	G	The <i>firm</i> need not provide the telephone number, email address or web address of the <i>MCD mortgage lender's</i> representative referred to at MCOB 5A Annex 2, 3.3R .
3.5	R	Where section 2 does not apply, an <i>MCD mortgage lender</i> must inform the <i>consumer</i> whether advisory services are being provided and on what basis using the wording at the end of section 1 of MCOB 5A Annex 1 R .
4	(Where there is a credit intermediary who is not the lender)	Section '2. Credit intermediary'
4.1	R	Where an <i>MCD mortgage credit intermediary</i> (other than the lender) provides an <i>ESIS</i> to a <i>consumer</i> , the <i>MCD mortgage credit intermediary</i> must include the following information: <ul style="list-style-type: none"> (1) the name, telephone number and geographical address of the <i>MCD mortgage credit intermediary</i>; (2) whether the <i>MCD mortgage credit intermediary</i> is providing advisory services and on what basis, using the wording at the end of section 2 of MCOB 5A Annex 1 R; and (3) an explanation of how the <i>MCD mortgage credit intermediary</i> is being remunerated.
4.2	R	The information provided under MCOB 5A Annex 2, 4.1R(1) must be the contact information that the <i>consumer</i> may use for future correspondence.
4.3	R	The explanation provided under MCOB 5A Annex 2, 4.1R(3) must include: <ul style="list-style-type: none"> (1) where the <i>MCD mortgage credit intermediary</i> receives commission from an <i>MCD mortgage lender</i>, the amount of that commission; (2) where the <i>MCD mortgage lender</i> from whom the <i>MCD mortgage credit intermediary</i> receives commission is different from the <i>MCD mortgage lender</i> referred to section 1, the name of that <i>MCD mortgage lender</i>; and (3) where the amount of remuneration is not known at the time when the <i>ESIS</i> is provided, a range of representative examples.
4.4	R	The explanation provided under MCOB 5A Annex 2, 4.1R(3) must not include remuneration paid to a third party.
4.5	R	An <i>MCD mortgage credit intermediary</i> need not provide its email address, fax number, web address or contact person/point.
4.6	G	In the event that an <i>MCD mortgage lender</i> provides a <i>consumer</i> with a binding offer and the characteristics of the offer are different from the information in the <i>ESIS</i> previously provided by the <i>MCD mortgage credit intermediary</i> , if the <i>MCD mortgage credit intermediary</i> confirms to the <i>MCD mortgage lender</i> that the revised transaction can proceed, the <i>MCD mortgage lender</i> may complete section 2 and update the wording referred to at MCOB 5A Annex 2, 4.1R(2) to say "[Name of credit intermediary] recommends .../ [Name of credit intermediary] is not recommending..." instead of "We recommend .../We are not recommending".
5		Section '3. Main features of the loan'

5.1	R	In section 3, the <i>firm</i> must clearly explain the main characteristics of the <i>MCD regulated mortgage contract</i> , including the value and currency and the potential risks associated with the <i>borrowing rate</i> , including the ones referred to in MCOB 5A Annex 2 , 5.7R, and the amortisation structure.
5.2	R	<p>Where the currency of the <i>MCD regulated mortgage contract</i> is different from the national currency of the <i>consumer</i>, the <i>firm</i> must:</p> <ol style="list-style-type: none"> (1) indicate that the <i>consumer</i> will receive a regular warning at least when the exchange rate fluctuates by more than 20 %; (2) where there is a provision in the <i>MCD regulated mortgage contract</i> to limit the exchange rate risk, indicate the maximum amount the <i>consumer</i> could have to pay back; (3) where there is no provision in the <i>MCD regulated mortgage contract</i> to limit the exchange rate risk to which the <i>consumer</i> is exposed to a fluctuation in the exchange rate of less than 20 %, provide an <i>illustration</i> of the effect of a 20 % fall in the value of <i>consumer's</i> national currency relative to the currency of the <i>MCD regulated mortgage contract</i> on the value of the <i>MCD regulated mortgage contract</i>; (4) where applicable, indicate that the <i>consumer</i> has the right to convert the currency of the <i>MCD regulated mortgage contract</i>; (5) where applicable, indicate to the <i>consumer</i> the right to renegotiate the conditions of the <i>MCD regulated mortgage contract</i>; and (6) indicate any other arrangements available to the <i>consumer</i> to limit his exposure to exchange rate risk.
5.3	R	<ol style="list-style-type: none"> (1) The <i>firm</i> must express the duration of the <i>MCD regulated mortgage contract</i> in years and months (or a combination of the two), whichever is the most relevant. (2) Where the duration of the <i>MCD regulated mortgage contract</i> can vary during the lifetime of the <i>MCD regulated mortgage contract</i>, the <i>firm</i> must explain when and under which conditions this can occur. (3) Where the <i>MCD regulated mortgage contract</i> is open-ended, for example, for a secured credit card, the <i>firm</i> must clearly state that fact. (4) Where the <i>MCD regulated mortgage contract</i> is an <i>MCD lifetime mortgage</i>, the duration of the mortgage must be estimated in accordance with MCOB 9.4.10 R, as if the mortgage is an <i>MCD exempt lifetime mortgage</i>.
5.4	R	<ol style="list-style-type: none"> (1) The <i>firm</i> must clearly indicate the type of <i>MCD regulated mortgage contract</i> (eg, mortgage credit, home loan, secured credit card). (2) The description under (1) must clearly indicate how the capital and the interest shall be repaid during the life of the <i>MCD regulated mortgage contract</i> (ie, the amortisation structure), specifying clearly whether the <i>MCD regulated mortgage contract</i> is

			on a capital repayment or interest-only basis, or a mixture of the two.
5.5	R		Where all or part of the <i>MCD regulated mortgage contract</i> is an interest-only <i>MCD regulated mortgage contract</i> , the <i>firm</i> must insert a statement, clearly indicating that fact, prominently at the end of section 3 using the wording in section 3 of <i>MCOB 5A Annex 1 R</i> .
5.6	R	(1)	In section 3, the <i>firm</i> must explain whether the <i>borrowing rate</i> of the <i>MCD regulated mortgage contract</i> is fixed or variable and, where applicable, the periods during which it will remain fixed; the frequency of subsequent revisions and the existence of limits to the <i>borrowing rate</i> variability, such as caps or floors.
		(2)	The <i>firm</i> must explain the formula used to revise the <i>borrowing rate</i> and its different components (eg, reference rate, interest-rate spread).
		(3)	The <i>firm</i> must indicate (eg, by means of a web address) where further information on the indices or rates used in the formula referred to in (2) can be found (eg, Euribor or central bank reference rate).
		(4)	If different borrowing rates apply in different circumstances, the <i>firm</i> must provide the information required by (1), (2) and (3) on all applicable rates.
5.7	R	(1)	The 'total amount to be repaid' corresponds to the total amount payable by the consumer. The <i>firm</i> must show this as the sum of the <i>credit</i> amount and the <i>total cost of the credit to the consumer</i> .
		(2)	Where the <i>borrowing rate</i> is not fixed for the duration of the <i>MCD regulated mortgage contract</i> , the <i>firm</i> must highlight that the amount in (1) is illustrative and may vary, in particular in relation with the variation in the <i>borrowing rate</i> .
		(3)	The <i>firm</i> may replace "reimbursed" with "repaid" (shown in round brackets), ie, "Total amount to be repaid".
5.8	R	(1)	Where the <i>credit</i> will be secured by an <i>MCD regulated mortgage contract</i> , another comparable security or by a right related to land, the <i>firm</i> must draw the <i>consumer's</i> attention to this.
		(2)	Where applicable, the <i>firm</i> must indicate the assumed value of the land or other security used for the purpose of preparing the <i>ESIS</i> .
5.9	G		In order for the <i>firm</i> to comply with the principle of 'fair, clear and not misleading' in MCOB 3A.2.1R(1), where the assumed value is not a value provided by the <i>consumer</i> , the valuation must be a reasonable assessment based on all the facts available at the time. For example, an overstated valuation could enable a more attractive <i>MCD regulated mortgage contract</i> to be illustrated on the basis of a lower ratio of the loan amount to the property value - for example, one with a lower rate of interest or without a <i>higher lending charge</i> .
5.10	R		The <i>firm</i> must indicate, where applicable, either:
		(1)	The 'maximum available loan amount relative to the value of the property', indicating the loan-to-value ratio. This ratio must be accompanied by an

			example in absolute terms of the maximum amount that can be borrowed for a given property value; or
		(2)	the 'minimum value of the property required by the <i>firm</i> to lend the illustrated amount'.
5.11	R	Where an <i>MCD regulated mortgage contract</i> has more than one part (eg, concurrently part fixed rate, part variable rate), the <i>firm</i> must indicate this and must provide the information required by section 3 for each part.	
5.12	R	The amount of the loan to be granted is:	
		(1)	in cases where, on the basis of the information obtained from the <i>consumer</i> , before providing the <i>ESIS</i> it is clear that the <i>consumer</i> would not be eligible to borrow the amount he requested, an estimate of the amount that the <i>consumer</i> could borrow based on the information obtained from the <i>consumer</i> . This does not require information to be obtained from the <i>consumer</i> before providing an <i>ESIS</i> to ascertain the amount the <i>consumer</i> is eligible to borrow, instead, this means that the <i>firm</i> does not have to provide a <i>consumer</i> with an <i>ESIS</i> for an amount it knows the <i>consumer</i> would not be eligible for, based on whatever information it has obtained from the <i>consumer</i> before providing the <i>ESIS</i> ; or
		(2)	where the <i>MCD regulated mortgage contract</i> is a revolving credit agreement, such as a secured overdraft or <i>mortgage credit card</i> , the total borrowing that the <i>firm</i> is willing to provide under the <i>MCD regulated mortgage contract</i> ; or
		(3)	where it is known that the loan will be released in instalments, for example, in the case of a self-build mortgage:
		(a)	where the lender has made a binding offer for the full amount, the total amount of the loan required and not the amount of the initial instalment;
		(b)	where the lender has made a binding offer for an initial amount, the initial amount; and
		(c)	where the lender's binding offer for an initial amount has been replaced by a binding offer for a larger amount, the larger amount.
6	Section '4. Interest rate' and other costs		
6.1	R	The reference to 'interest rate' corresponds to the <i>borrowing rate</i> or <i>borrowing rates</i> .	
6.2	R	The <i>firm</i> must state the <i>borrowing rate</i> as a percentage value.	
6.3	R	(1)	Where the <i>borrowing rate</i> is variable and based on a reference rate, the <i>firm</i> may indicate the <i>borrowing rate</i> by stating a reference rate and a percentage value of the <i>MCD mortgage lender's</i> spread.
		(2)	The <i>firm</i> must state the value of the reference rate in (1) as at the day it issues the <i>ESIS</i> .
6.4	R	Where the <i>borrowing rate</i> is variable, the <i>firm</i> must include:	

		1)	the assumptions used to calculate the <i>APRC</i> ;
		(2)	where relevant, the applicable caps and floors; and
		(3)	a warning that the variability could affect the actual level of the <i>APRC</i> .
6.5	R	In order to attract the <i>consumer's</i> attention the <i>firm</i> must:	
		(1)	use a font size for the warning required by MCOB 5A Annex 2, 6.4R(3) that is bigger than the font size it uses for the rest of the <i>ESIS</i> ;
		(2)	ensure that warning required by MCOB 5A Annex 2, 6.4R(3) figures prominently in the main body of the <i>ESIS</i> .
6.6	R	(1)	The <i>firm</i> must accompany the warning required by MCOB 5A Annex 2, 6.4R(3) with an illustrative example of the <i>APRC</i> .
		(2)	Where there is a cap on the <i>borrowing rate</i> , the example required by (1) must assume that the <i>borrowing rate</i> rises at the earliest possible opportunity to the highest level foreseen in the <i>MCD regulated mortgage contract</i> .
		(3)	Where there is no cap, the example required by (1) must illustrate the <i>APRC</i> at the highest <i>borrowing rate</i> in at least the last 20 years. Or, where the underlying data for the calculation of the <i>borrowing rate</i> is available for a period of less than 20 years, the longest period for which such data is available, based on the highest value of any external reference rate used in calculating the <i>borrowing rate</i> , where applicable, or the highest value of a benchmark rate specified by the <i>FCA</i> where the <i>MCD mortgage lender</i> does not use an external reference rate.
		(4)	The requirement under (1) does not apply to an <i>MCD regulated mortgage contract</i> where the <i>borrowing rate</i> is fixed for a material initial period of several years and may then be fixed for a further period following negotiation between the <i>MCD mortgage lender</i> and the <i>consumer</i> .
		(5)	For an <i>MCD regulated mortgage contract</i> within (4), the <i>firm</i> must include a warning that the <i>APRC</i> is calculated on the basis of the <i>borrowing rate</i> for the initial period.
		(6)	The <i>firm</i> must accompany the warning required by (5) with an additional, illustrative <i>APRC</i> calculated in accordance with MCOB 10A.1.5R .
6.7	R	(1)	Where the <i>credit</i> secured by an <i>MCD regulated mortgage contract</i> is a multi-part <i>credit</i> (eg, concurrently part fixed rate, part variable rate), the <i>firm</i> must provide the information about the <i>borrowing rate</i> required by MCOB 5A Annex 2, 6 for each part of the <i>credit</i> .
		(2)	Where the <i>credit</i> secured by an <i>MCD regulated mortgage contract</i> is a multi-part <i>credit</i> , the <i>firm</i> must calculate and provide the additional illustrative <i>APRC</i> required by MCOB 5A Annex 2, 6 once in respect of the entire <i>MCD regulated mortgage contract</i> .

6.8	R	The <i>FCA's</i> benchmark rate is the difference in percentage points between the Bank of England's base rate on the date the <i>ESIS</i> is issued and the highest value of the Bank of England's base rate over at least the last 20 years, added to the <i>borrowing rate</i> shown in the <i>ESIS</i> .	
6.9	R	When more than one interest rate applies during the term of the <i>MCD regulated mortgage contract</i> , for example, because there is an initial fixed or discounted interest rate period, the <i>firm</i> must calculate the <i>FCA's</i> benchmark rate by reference to the reversionary <i>borrowing rate</i> shown in the <i>ESIS</i> .	
6.10	G	When calculating the <i>FCA's</i> benchmark rate, the <i>firm</i> may: <ol style="list-style-type: none"> (1) calculate the last 20 years from up to three <i>months</i> prior to the date the <i>ESIS</i> is issued; and (2) extend the period for calculating the <i>FCA's</i> benchmark rate beyond the last 20 years to any period longer than 20 years. 	
6.11	R	In the event of a scenario in column (1) in the table MCOB 5A Annex 2 , 6.12R, the <i>firm</i> must calculate the illustrative example of the <i>APRC</i> (the additional <i>APRC</i>) in accordance with column (2) of that table.	
6.12	R	This table belongs to MCOB 5A Annex 2 , 6.11R.	
		(1) Scenario	(2) Calculation of additional <i>APRCNB</i>: A <i>MCD mortgage lender's</i> standard variable rate is not to be used as an external reference rate (ERR)
		Mortgage with an interest-rate cap	Calculate the <i>APRC</i> based on the <i>borrowing rate</i> rising at the earliest possible opportunity to the level of the cap.
		Where the product is not linked to an ERR	Use the <i>FCA's</i> benchmark rate.
		<i>MCD mortgage lender</i> uses an ERR and has 20 years of data relating to the margin applied by the <i>MCD mortgage lender</i>	Use the highest ERR in the previous 20 years, and apply the highest margin over that or lowest margin under it, to produce the highest additional <i>APRC</i> .
		<i>MCD mortgage lender</i> uses an ERR and has less than 20 years of data relating to the margin applied by the <i>MCD mortgage lender</i>	Use the highest ERR in the previous 20 years, and apply the highest margin over that or lowest margin under it, used in the period of data available, to produce the highest additional <i>APRC</i> .
		<i>MCD mortgage lender</i> comprises a group which contains separate legal entities or comprises distinct product brands and has 20 years of data relating to the margin applied by that legal entity or product brand. It may have similar products across entities or brands within the same group or company with different margins above or below the ERR.	Use the highest ERR in the previous 20 years with respect to the pricing approach for the specific legal entity or product brand and apply the highest margin over that or lowest margin under it to produce the highest additional <i>APRC</i> .
		<i>MCD mortgage lender</i> com-	Use the highest ERR in the previ-

prises a group which contains separate legal entities or comprises distinct product brands and has less than 20 years of data relating to the margin applied by that legal entity or product brand. It may have similar products across entities or brands within the same group or company with different margins above or below the ERR.

MCD mortgage lender has previously purchased a brand that uses an ERR and has 20 years of data relating to the margin applied by the *MCD mortgage lender* for the same product

MCD mortgage lender has previously purchased a brand that uses an ERR and has less than 20 years of data relating to the margin applied by the *MCD mortgage lender* for the same product

MCD mortgage lender has different ERR calculation methods that apply over time (eg, 0.5% over Bank of England rate for the first two years and then 2% over Bank of England rate for the rest of the mortgage lifetime).

MCD mortgage lender has different methods that apply to different proportions of the principal (eg, ERR + x% applies to 50% principal and SVR applies to the other 50%)

MCD mortgage lender uses an ERR where its basis has changed in the past 20 years

MCD mortgage lender has an ERR calculation method that applies for a fixed period of time after which the lender's standard variable rate applies (eg, 0.5% over Bank of England rate for the first two years and then the lender's standard variable rate applies for the rest of the mortgage lifetime).

ous 20 years with respect to the pricing approach for the specific legal entity or product brand and apply the highest margin over that or lowest margin under it used in the period of data available to produce the highest additional *APRC*.

Where the purchaser is carrying on new lending under the purchased brand - same as above, using previous *firm's* data where relevant and where it may be reasonably obtained.

Where the purchaser is carrying on new lending under the purchased brand - same as above, using previous *firm's* data, where relevant and where it may be reasonably obtained. Otherwise, use the *FCA's* benchmark rate.

Calculate using the method which produces the highest additional *APRC*.

Calculate using the ERR where applicable and the *FCA's* benchmark rate, where applicable, and use both to calculate the additional *APRC*.

Consider whether there was an equivalent predecessor ERR and use the ERR (and its equivalent predecessor(s), if any) provided that it (or they) have existed at least 20 years, otherwise use the *FCA's* benchmark rate.

Calculate using the method which produces the highest additional *APRC*.

6.13	R	(1)	The <i>firm</i> must list all the costs other than the <i>borrowing rate</i> in the section on 'other components of the <i>APRC</i> ', including one-off costs, such as administration fees, and regular costs, such as annual administration fees.
		(2)	the <i>firm</i> must list each of the costs referred to in (1) by the categories set out in (3) and indicate for each cost:
		(a)	the amount;
		(b)	to whom the cost is to be paid; and
		(c)	when the cost is to be paid.
		(3)	The categories referred to in (1) are:
		(a)	costs to be paid on a one-off basis;
		(b)	costs to be paid regularly and included in the instalments; and
		(c)	costs to be paid regularly but not included in the instalments.
		(4)	Where the amount in (2)(a) is not known, the <i>firm</i> must provide an indication of the amount if possible or, if not possible, how the amount will be calculated and specify that the amount provided is indicative only.
		(5)	The <i>firm</i> must highlight where certain costs are not included in the <i>APRC</i> because they are unknown to the <i>firm</i> .
6.14	G		The costs in MCOB 5A Annex 2, 6.13R(1) need not include costs incurred for breaches of contractual obligations.
6.15	R		Where a <i>consumer</i> has informed the <i>firm</i> of one or more components of his preferred <i>MCD regulated mortgage contract</i> , such as the duration of the <i>MCD regulated mortgage contract</i> and the total amount of <i>credit</i> , the <i>firm</i> must, where possible, use those components.
6.16	R		If an <i>MCD regulated mortgage contract</i> provides for different ways of drawdown with different charges or borrowing rates and the <i>MCD mortgage lender</i> uses the assumptions set out in MCOB 10A.3.1 R , the <i>firm</i> must indicate that other drawdown mechanisms for this type of <i>MCD mortgage lender</i> may result in a higher <i>APRC</i> .
6.17	R		Where the <i>firm</i> uses the conditions for drawdown for calculating the <i>APRC</i> , the <i>firm</i> must highlight the charges associated with other drawdown mechanisms that are not necessarily the ones used in calculating the <i>APRC</i> .
6.18	R	(1)	Where a fee is payable for registration of the <i>MCD regulated mortgage contract</i> or comparable security, the <i>firm</i> must disclose that in section 3 with the amount, where known, or where this is not possible the basis for determining the amount.
		(2)	Where the fees in (1) are known and included in the <i>APRC</i> , the <i>firm</i> must list the existence and amount of the fee under 'Costs to be paid on a one-off basis'.

		(3)	Where the fees in (1) are not known to the <i>firm</i> and, therefore, not included in the <i>APRC</i> , the <i>firm</i> must clearly indicate the existence of the fee in the list of costs which are not known to the lender.
		(4)	The <i>firm</i> must use the standardised wording in section 4 of MCOB 5A Annex 1 R under the appropriate heading.
7	Section '5. Frequency and number of payments'		
7.1	R		Where a <i>consumer</i> will be required to make payments under an <i>MCD regulated mortgage contract</i> on a regular basis, the <i>firm</i> must indicate the frequency of those payments (eg, monthly).
7.2	R		Where a <i>consumer</i> will be required to make payments under an <i>MCD regulated mortgage contract</i> on an irregular basis, the <i>firm</i> must clearly explain this to the <i>consumer</i> .
7.3	R		The <i>firm</i> must indicate the number of payments under the <i>MCD regulated mortgage contract</i> that the <i>consumer</i> will be required to make over the entire duration of the <i>MCD regulated mortgage contract</i> .
8	Section '6. Amount of each instalment'		
8.1	R		The <i>firm</i> must clearly indicate the currency of the <i>MCD regulated mortgage contract</i> and the currency and amount of the instalments.
8.2	R		Where the amount of the instalments may change during the life of the <i>MCD regulated mortgage contract</i> , the <i>firm</i> must specify the period during which that initial instalment amount will remain unchanged and when and how frequently afterwards it will change.
8.3	R		Where all or part of the <i>MCD regulated mortgage contract</i> is an interest-only <i>MCD regulated mortgage contract</i> , the <i>firm</i> must insert a statement clearly indicating that fact, prominently at the end of section 6 using the wording in section 6 of MCOB 5A Annex 1 R .
8.4	R		If there is a requirement for the <i>consumer</i> to take out a tied savings product as a condition for being granted an interest-only <i>MCD regulated mortgage contract</i> , the <i>firm</i> must provide the amount and frequency of any payments for this product.
8.5	R	(1)	Where the <i>borrowing rate</i> is variable, the <i>firm</i> must include a statement indicating that fact, using the wording in section 6 of MCOB 5A Annex 1 R and an illustration of a maximum instalment amount.
		(2)	Where there is a cap, the illustration under (1) must show the amount of the instalments if the <i>borrowing rate</i> rises to the level of the cap.
		(3)	Where there is no cap, the illustration under (1) must illustrate the level of instalments at the highest <i>borrowing rate</i> in the last 20 years, or where the underlying data for the calculation of the <i>borrowing rate</i> is available for a period of less than 20 years, the longest period for which such data is available, based on:
		(a)	the highest value of any external reference rate used in calculating the <i>borrowing rate</i> , where applicable,

		(b)	or the highest value of a benchmark rate specified by the FCA in MCOB 5A Annex 2, 6.8R to 6.10G; where the <i>MCD mortgage lender</i> does not use an external reference rate.
		(4)	The requirement under (1) does not apply to an <i>MCD regulated mortgage contract</i> where the <i>borrowing rate</i> is fixed for a material initial period of several years and may then be fixed for a further period following negotiation between the <i>MCD mortgage lender</i> and the <i>consumer</i> .
		(5)	Where the <i>credit</i> secured by an <i>MCD regulated mortgage contract</i> is a multi-part <i>credit</i> (eg, concurrently part fixed rate, part variable rate), the <i>firm</i> must provide the information about the <i>borrowing rate</i> required by MCOB 5A Annex 2, 8 for each part of the <i>credit</i> and for the overall <i>credit</i> .
8.6	R	(1)	Where the currency of the <i>MCD regulated mortgage contract</i> is different from the <i>consumer's</i> national currency or where the <i>MCD regulated mortgage contract</i> is indexed to a currency which is different from the <i>consumer's</i> national currency, the <i>firm</i> must include a numerical example clearly showing how changes to the relevant exchange rate may affect the amount of the instalments using the wording in section 6 of MCOB 5A Annex 1 R .
		(2)	The <i>firm</i> must base the example under (1) on a 20 % reduction in the value of the <i>consumer's</i> national currency.
		(3)	The <i>firm</i> must accompany the example under (1) with a prominent statement that the instalments could increase by more than the amount assumed in that example.
		(4)	Where there is a cap which limits the increase in (1) to less than 20 %, the <i>firm</i> must state the maximum value of the payments in the <i>consumer's</i> currency instead and omit the statement in (3) on the possibility of further increases.
8.7	R		Where the <i>MCD regulated mortgage contract</i> is fully or partly a variable rate <i>MCD regulated mortgage contract</i> and MCOB 5A Annex 2, 8.3R applies, the <i>firm</i> must give the <i>illustration</i> under MCOB 5A Annex 2, 8.6R(1) on the basis of the instalment amount indicated under MCOB 5A Annex 2, 8.1R .
8.8	R	(1)	Where the currency used for the payment of instalments is different from the currency of the <i>MCD regulated mortgage contract</i> or where the amount of each instalment expressed in the <i>consumer's</i> national currency depends on the corresponding amount in a different currency, the <i>firm</i> must in section 6 indicate the date at which the applicable exchange rate is calculated and either the exchange rate or the basis on which it will be calculated and the frequency of their adjustment.
		(2)	Where applicable, the <i>firm</i> must include in its indication under (1) the name of the institution publishing the exchange rate.

8.9	R	Where the <i>MCD regulated mortgage contract</i> is a deferred-interest <i>MCD regulated mortgage contract</i> under which interest due is not fully repaid by the instalments and is added to the total amount of the <i>MCD regulated mortgage contract</i> outstanding, the <i>firm</i> must include an explanation of how and when deferred interest is added to the <i>MCD regulated mortgage contract</i> as a cash amount, and what the implications are for the <i>consumer</i> in terms of his remaining debt.	
9	Section '7. Illustrative repayment table'		
9.1	R	(1)	The <i>firm</i> must include section 7 where the <i>MCD regulated mortgage contract</i> is a deferred-interest <i>MCD regulated mortgage contract</i> under which interest due is not fully repaid by the instalments and is added to the total amount of <i>MCD regulated mortgage contract</i> outstanding, or where the <i>borrowing rate</i> is fixed for the duration of the <i>MCD regulated mortgage contract</i> .
		(2)	The <i>firm</i> may replace the word "reimbursed" with "repaid" (shown in round brackets), ie "the amount of the loan that remains to be repaid after each instalment".
9.2	R	Where the <i>consumer</i> has the right to receive a revised amortisation table, the <i>firm</i> must indicate this along with the conditions under which the <i>consumer</i> has that right.	
9.3	R	The <i>firm</i> must include in section 7 an illustrative amortisation table including the following columns:	
		(1)	'repayment schedule' (eg, month 1, month 2, month 3);
		(2)	'amount of the instalment';
		(3)	'interest to be paid per instalment';
		(4)	'other costs included in the instalment' (where relevant);
		(5)	'capital repaid per instalment'; and
		(6)	'outstanding capital after each instalment'.
9.4	R	The <i>firm</i> must:	
		(1)	for the first repayment year, provide an illustrative amortisation table in accordance with MCOB 5A Annex 2, 9.3R for each instalment and include a subtotal for each of the columns at the end of that first year;
		(2)	for the following years, provide an illustrative amortisation table in accordance with MCOB 5A Annex 2, 9.3R on an annual basis;
		(3)	add an overall total at the end of the table and provide the total amounts for each column; and
		(4)	clearly highlight the total cost of the <i>MCD regulated mortgage contract</i> paid by the <i>consumer</i> (ie, the overall sum of the 'amount of the instalment' column) and present it as such.
9.5	G	Where the <i>borrowing rate</i> is subject to revision and the amount of the instalment after each revision is unknown, the <i>firm</i> may indicate in the illustrative amortisation table required by MCOB 5A	

			Annex 2, 9.3R the same instalment amount for the whole credit duration.
9.6	R		If the <i>firm</i> acts in accordance with MCOB 5A Annex 2, 9.5G, the <i>firm</i> must:
		(1)	draw the fact that the <i>borrowing rate</i> is subject to revision and the amount of the instalment after each revision is unknown to the attention of the <i>consumer</i> by visually differentiating the amounts which are known from the hypothetical ones (eg, using a different font, borders or shading); and
		(2)	in a clearly legible text explain for which periods the amounts represented in the table may vary and why.
10	Section '8. Additional obligations'		
10.1	R	(1)	The <i>firm</i> must specify in section 8 any obligations imposed on the <i>consumer</i> in order to benefit from the <i>MCD regulated mortgage contract</i> , such as the obligation to insure the property, to purchase life insurance, to have a salary paid into an account with the <i>MCD mortgage lender</i> or to buy any other product or service.
		(2)	For each obligation specified under (1), the <i>firm</i> must specify:
		(a)	towards whom and by when the obligation needs to be fulfilled;
		(b)	the duration of the obligation, eg, until the end of the <i>MCD regulated mortgage contract</i> ;
		(c)	any costs to be paid by the <i>consumer</i> which are not included in the <i>APRC</i> .
10.2	R	(1)	The <i>firm</i> must state whether it is compulsory for the <i>consumer</i> to purchase any ancillary services to obtain the <i>MCD regulated mortgage contract</i> on the stated terms and, if so, whether the <i>consumer</i> is obliged to purchase them from the <i>MCD mortgage lender's</i> preferred supplier or whether they may be purchased from a provider chosen by the <i>consumer</i> .
		(2)	Where the possibility referred to in (1) is conditional on the ancillary services meeting certain minimum characteristics, the <i>firm</i> must describe those characteristics in section 8.
		(3)	Where applicable, the <i>firm</i> must state the possible consequences of terminating the ancillary services.
10.3	R		Where the <i>MCD regulated mortgage contract</i> is bundled with other products the <i>firm</i> must clearly state:
		(1)	the key features of those other products; and
		(2)	whether the <i>consumer</i> has a right to terminate the <i>MCD regulated mortgage contract</i> or the bundled products separately and the conditions for and implications of doing so.
11	Section '9. Early repayment'		
11.1	R		The <i>firm</i> must indicate under what conditions the <i>consumer</i> can repay the <i>MCD regulated mortgage contract</i> early, either fully or partially.

11.2	R	(1)	In the section on early repayment charges, the <i>firm</i> must draw the <i>consumer's</i> attention to any early repayment charge or other costs payable on early repayment in order to compensate the <i>MCD mortgage lender</i> and, where possible, indicate their amount.
		(2)	In cases where the amount of compensation would depend on different factors, such as the amount repaid or the prevailing interest rate at the moment of the early repayment, the <i>firm</i> must indicate how the compensation will be calculated and provide the maximum amount that the charge might be, or where this is not possible, an illustrative example in order to demonstrate to the <i>consumer</i> the level of compensation under different possible scenarios.
		(3)	The <i>firm</i> may make the following changes to the wording in this section: <ul style="list-style-type: none"> (a) replace the word "possibility" with "right" (shown in round brackets) ie, "You have the right to repay this loan early, either fully or partially"; (b) replace the words "Exit charge" and "exit charge" with "Early repayment charge" or "early repayment charge" (shown in round brackets).
12		Section '10. Flexible features'	
12.1	R	(1)	Where applicable, the <i>firm</i> must explain the right to, and conditions for, transferring the <i>MCD regulated mortgage contract</i> to another <i>MCD mortgage lender</i> or property.
		(2)	The <i>firm</i> may replace "possibility to" with the "the right to" (shown in round brackets).
12.2	R		Where the product contains any of the features listed in MCOB 5A Annex 2 , 12.6R, the <i>firm</i> must list those features as additional features in section 10 and provide a brief explanation of:
		(1)	the circumstances in which the <i>consumer</i> can use the feature;
		(2)	any conditions attached to the feature;
		(3)	if the feature being part of the <i>credit</i> secured by an <i>MCD regulated mortgage contract</i> or comparable security means that the <i>consumer</i> loses any statutory or other protections usually associated with the feature; and
		(4)	the <i>firm</i> providing the feature (if not the <i>MCD mortgage lender</i>).
12.3	R		If the feature listed in accordance with MCOB 5A Annex 2 , 12.2R contains any additional <i>credit</i> , then the <i>firm</i> must, in section 10, state:
		(1)	the <i>total amount of credit</i> (including the <i>credit</i> secured by the <i>MCD regulated mortgage contract</i> or comparable security);
		(2)	whether the additional <i>credit</i> is secured or not;
		(3)	the relevant <i>borrowing rates</i> ; and

12.4	R	(4) whether the additional <i>credit</i> is regulated or not. The <i>firm</i> must either include any additional <i>credit</i> amount in the original creditworthiness assessment or, if it is not, the <i>firm</i> must, in section 10, make clear that the availability of the additional amount is dependent on a further assessment of the <i>consumer's</i> ability to repay.
12.5	R	If the feature listed in accordance with MCOB 5A Annex 2 , 12.2R involves a savings vehicle, the <i>firm</i> must explain the relevant interest rate.
12.6	R	The possible additional features are: (1) 'Overpayments/Underpayments' (paying more or less than the instalment ordinarily required by the amortisation structure); (2) 'Payment holidays' (periods where the <i>consumer</i> is not required to make payments); (3) 'Borrow back' (ability for the <i>consumer</i> to borrow again funds already drawn down and repaid); (4) 'Additional borrowing available without further approval'; (5) 'Additional secured or unsecured borrowing' (completed in accordance with MCOB 5A Annex 2 , 12.3R); (6) 'Credit card'; (7) 'Linked current account'; and (8) 'Linked savings account'.
12.7	G	The <i>firm</i> may include any other features offered by the <i>MCD mortgage lender</i> as part of the <i>MCD regulated mortgage contract</i> not mentioned in previous sections.
13		Section '11. Other rights of the borrower'
13.1	R	The <i>firm</i> must clearly specify the <i>consumer's</i> reflection period.
13.2	R	Where applicable, the <i>firm</i> must clearly state any other rights of the <i>consumer</i> (other than the reflection period), such as portability (including subrogation) that exist and for each right specify: (1) the conditions to which that right is subject; (2) the procedure that the <i>consumer</i> will need to follow in order to exercise that right, including payment of any fees;
13.3	R	Where the <i>firm</i> offers the <i>MCD regulated mortgage contract</i> at a distance, the <i>firm</i> must inform the <i>consumer</i> of the absence of a right of withdrawal.
14		Section '12. Complaints'
14.1	R	(1) The <i>firm</i> must, in section 12, indicate to whom within the <i>firm</i> , the <i>consumer</i> can make a complaint and provide: (a) the name of the relevant department; (b) contact details, such as a geographical address, telephone number or contact person (including in the case of the contact person, their contact details); and

		(c)	a link to the complaints procedure on the relevant page of the <i>firm's</i> website or similar information source.
		(2)	The information required by (1) is in respect of the <i>firm</i> providing the <i>ESIS</i> .
14.2	R	The <i>firm</i> must, in section 12, indicate:	
		(1)	the name of the <i>Financial Ombudsman Service</i> ; and
		(2)	that using the <i>firm's</i> internal complaint procedure is a precondition for access to the <i>Financial Ombudsman Service</i> , using the wording in section 12 of MCOB 5A Annex 1 R .
14.3	R	[deleted]	
15	Section '13. Non-compliance with the commitments linked to the MCD regulated mortgage contract: consequences for the borrower'		
15.1	R	(1)	The <i>firm</i> must in section 13, describe the different main cases (eg, late payments/ default, failure to respect the obligations set out in Section 8 'Additional obligations') where non-observance of any of the <i>consumer's</i> obligations linked to the <i>MCD regulated mortgage contract</i> may have financial or legal consequences for the <i>consumer</i> and indicate where the <i>consumer</i> can obtain further information.
		(2)	The description required by (1) must be a summary which can be read and understood on its own.
		(3)	For each of the cases described under (1), the <i>firm</i> shall specify, in clear, easy comprehensible terms, the sanctions or consequences to which they may give rise and highlight any serious consequences.
15.2	G	The disclosure required by MCOB 5A Annex 2 , 15.1R(1) relates to "main cases", rather than every case.	
15.3	G	The <i>firm</i> may provide the detail relating to the summary provided under MCOB 5A Annex 2 , 15.1R(2) separately in the terms and conditions of the <i>MCD regulated mortgage contract</i> .	
15.4	R	Where the land used to secure the <i>MCD regulated mortgage contract</i> may be returned or transferred to the <i>MCD mortgage lender</i> , if the <i>consumer</i> does not comply with the obligations, the <i>firm</i> must, in section 13, include a statement indicating that fact, using the wording in section 13 of MCOB 5A Annex 1 R .	
16	Section '14. Additional information'		
16.1	R	If the <i>firm</i> is carrying on distance marketing, it must, in section 14 of MCOB 5A Annex 1 R , state the law applicable to the <i>MCD regulated mortgage contract</i> or the competent court.	
16.2	R	Where the <i>MCD mortgage lender</i> intends to communicate with the <i>consumer</i> during the life of the <i>MCD regulated mortgage contract</i> in a language different from the language of the <i>ESIS</i> , the <i>firm</i> must include that fact and state the language that will be used.	
16.3	R	The <i>firm</i> must state the <i>consumer's</i> right to be provided with a copy of the draft <i>MCD regulated mortgage contract</i> when the <i>MCD mortgage lender</i> provides the <i>consumer</i> with a binding offer.	

17	Section '15. Supervisor'
17.1	The <i>firm</i> must state the relevant authority or authorities for the supervision of the pre-contractual stage of the <i>MCD regulated mortgage contract</i> .

Chapter 6

Disclosure at the offer stage



6.1 Application

Who?

6.1.1 **R** Subject to **MCOB 6.1.2A R**, this chapter applies to a *firm* in a category listed in column (1) of the table in **MCOB 6.1.2 R** in accordance with column (2) of that table.

6.1.2 **R** This table belongs to **MCOB 6.1.1R**

(1) Category of firm	(2) Applicable section
<i>mortgage lender</i>	whole chapter except MCOB 6.8
<i>home purchase provider</i>	MCOB 6.1 (except MCOB 6.1.6 G), MCOB 6.2 and MCOB 6.8
<i>reversion provider</i>	see MCOB 9.5 for the application of this chapter
<i>SRB agreement provider</i>	MCOB 6.1.1 R to MCOB 6.1.3 R , MCOB 6.1.5 R , MCOB 6.2 , MCOB 6.3 and MCOB 6.9

6.1.2A **R** This chapter does not apply to a *firm* that is an *MCD mortgage lender*.

What?

6.1.3 **R** This chapter applies with respect to an offer made by a *firm* to a *customer* with a view to the *firm*:

- (1) *entering into a home finance transaction*;
- (2) *varying the terms of a home finance transaction* entered into by the *customer* in any of the following ways:
 - (a) adding or removing a party;
 - (b) making a further advance; or
 - (c) switching all or part of the *regulated mortgage contract* from one interest rate to another;

(whether or not the *customer* agrees to enter into the *home finance transaction* or variation).

6.1.4 **R** In relation to a *lifetime mortgage*, this chapter, **MCOB 6**, is modified by **MCOB 9** (Equity release: product disclosure).

6.1.5 **R** In **■ MCOB 6**, a reference to an offer to enter into a *home finance transaction* is to be read as including a reference to an offer to vary an existing *home finance transaction* in a manner specified in this section if the context so requires.

6.1.6 **G** *Firms* may diverge from the requirements in **■ MCOB 5.6** (Content of *illustrations*) where necessary to reflect the fact that they are providing an illustration for a variation as part of an *offer document*.



6.2 Purpose

6.2.1

G

- (1) ■ MCOB 6 amplifies *Principle 6* and *Principle 7*. The purpose of ■ MCOB 6 is to ensure that a *customer* receives a clear *offer document* to enable him to check the features and price of the *home finance transaction* before he enters into it. The *offer document* should include an updated and suitably adapted *illustration* (for a *regulated mortgage contract*) or financial information statement (for a *home purchase plan*) so that the *customer* can compare it with the one he received before he applied for the *home finance transaction*.
- (2) [deleted]

6.3 General

6.3.1

G

6.3.2

R

Any communication required by **■ MCOB 6** to be provided to a customer by a firm must be in a *durable medium*.



6.4 Mortgages: content of the offer document

- 6.4.1

R

(1) If a *firm* offers to entering into a regulated mortgage contract with a *customer*, it must provide the *customer* with an *offer document* containing an *illustration*.

(2) The *firm's* offer in the *offer document* must be on the basis of the information set out in the *illustration* provided in accordance with (1).

6.4.2

G

Records

- 6.4.3

R

(1) A *firm* must make an adequate record of each *offer document* which it issues to a *customer* in accordance with ■ MCOB 6.

(2) The record required by (1) must be retained for a year from the date that the *offer document* is issued to the *customer*.

(3) If, in accordance with ■ MCOB 6.5 (Information to be provided in the offer document or separately), information is included in a separate document that is sent with the *offer document*, that information must also be retained as part of the record required by (1).

Modifications to the illustration

- 6.4.4

R

The *illustration* provided as part of the *offer document* in accordance with ■ MCOB 6.4.1 R (1) must meet the requirements of ■ MCOB 5.6 (Content of illustrations) with the following modifications:

(1) the *illustration* must be suitably adapted and revised to reflect the fact that the *firm* is making an offer to a *customer* and updated to reflect changes to, for example, the interest rate, charges, the exchange rate or the APR required by ■ MCOB 10 (Annual Percentage Rate), at the date the *illustration* is issued;

(2) ■ MCOB 5.6.2 R (2) (a) does not apply;

- (3) ■ **MCOB 5.6.15 R** (Information to be included at the head of the illustration) does not apply;
- (4) ■ **MCOB 5.6.16 R** (Section 1: 'About this illustration') is replaced by the following: "Section 1: 'About this offer document': Under the section heading 'About this offer document', the following text must be included:
 - (a) 'You are not bound by the terms of this offer document until [insert relevant circumstances, including the names of any documents that must be signed. For example "you have signed the legal charge and the funds are released for your mortgage"]. We are required by the Financial Conduct Authority (FCA) - the independent watchdog that regulates financial services - to provide you with this offer document.'; and
 - (b) (unless ■ **MCOB 6.6.1 R** applies) "You should compare this offer document with the key facts illustration given to you before you applied for this mortgage, to see how the details may have changed.";
- (5) Unless (b) applies, ■ **MCOB 5.6.17 R** (Section 2: 'Which service are we providing you with?') is replaced with the following: "Section 2: 'Which service did we provide you with?'
 - (a) Under the section heading 'Which service did we provide you with?' the following text should be presented as two options each with a 'check box', one of which must be marked prominently to indicate the level of service provided to the *customer*: 'We have recommended, having assessed your needs, that you take out this mortgage. We have not recommended a particular mortgage for you. You must make your own choice whether to accept this mortgage offer.';
 - (b) If the service described in ■ **MCOB 5.6.17 R** (Section 2: 'Which service are we providing you with?') was provided by another *firm*, ■ **MCOB 5.6.17 R** is replaced by the following: "Section 2: 'Which service were you provided with?' Under the section heading 'Which service were you provided with?' the following text should be presented as two options each with a 'check box' one of which must be marked prominently to indicate the level of service provided to the *customer*: '[name of firm] recommended that you take out this mortgage. [name of firm] did not recommend a particular mortgage for you. You must make your own choice whether to accept this mortgage offer.';
- (6) ■ **MCOB 5.6.29 R (2)** does not apply;
- (7) ■ **MCOB 5.6.52 R** to ■ **MCOB 5.6.53 G** is replaced by the following: Where all or part of the *regulated mortgage contract* is an *interest-only mortgage*, the *illustration* in the *offer document* must:
 - (a) clearly state that the payments on the *regulated mortgage contract* cover only interest, and not the capital borrowed; and
 - (b) [deleted]
 - (c) include a statement reminding the *customer* to check regularly the performance of any *investment* used as a *repayment strategy*, to see whether it is likely to be adequate to repay the capital

and, where applicable, pay the interest accrued at the end of the term of the *regulated mortgage contract*;

- (7A) The *illustration* may state the *repayment strategy* the *customer* intends to use.
- (8) the fees recorded in the *illustration* that is part of the *offer document* in accordance with ■ MCOB 5.6.66 R (1) must include any fees paid or payable by the *customer*;
- (9) ■ MCOB 5.6.69 R (5) is replaced by the following: '(where the fee is payable or has been paid to the *mortgage lender*), whether or not the fee is refundable, and if so, the extent to which it is refundable;'
- (10) [deleted]
- (11) where additional features are included in accordance with ■ MCOB 5.6.92 R and these are credit facilities that meet the definition of a *regulated credit agreement* regulated by the Consumer Credit Act 1974 and the Act, the relevant parts of Section 12 of the *illustration* that is part of the *offer document* must include the following text: "This credit facility is regulated under the Consumer Credit Act 1974 and the Financial Services and Markets Act 2000. Please refer to the separate credit agreement which describes the facility and the terms on which the credit is available";
- (12) The text required by ■ MCOB 5.6.102 R (2) (a) or (b) should be adapted to include, or tell the *customer* where they can find, the information required by ■ MCOB 6.5.4 R; and
- (13) ■ MCOB 5.6.113 R applies to the *illustration* that is part of the *offer document* if the *illustration* given out in accordance with ■ MCOB 5 (Pre-application disclosure) was issued by, or on behalf of, a *mortgage intermediary*.

6.4.5

G

- (1) One consequence of ■ MCOB 6.4.4 R(5)(b) is that the *mortgage lender* will need to know, for each individual transaction *arranged* by a *mortgage intermediary*, whether or not the *customer* has received advice from that *mortgage intermediary*.
- (2) When complying with ■ MCOB 6.4.4 R(5)(b), *mortgage lenders* may wish to include a statement after the level of service in Section 2 confirming that the level of service described was given by another *firm*, and explaining that they, as the *mortgage lender*, are not responsible for the level of service given, and that the *customer* should contact the other *firm* if they have any queries about the level of service provided. For example: "If you have any queries about this service, you should contact [Name of firm]. [Name of lender] is not responsible for the advice or information you received."

6.4.6

R

In adapting and revising the *illustration* that is part of the *offer document* in accordance with ■ MCOB 6.4.4 R(1) a *firm* must:

- (1) avoid amending the format of the information required by ■ MCOB 5.6 (Content of illustrations) where possible, since this could result in the *illustration* in the *offer document* being difficult to

- compare with the *illustration* originally provided to the *customer* in accordance with ■ MCOB 5.5.1 R;
- (2) use, where possible, the same headings, ordering of information, and language that appeared in the *illustration* provided in accordance with ■ MCOB 5.6 (Content of illustrations); and
 - (3) only change section headings where necessary (for example 'What you have told us' could be renamed 'Your mortgage requirements').
- 6.4.7** **R** In adapting and revising the *illustration* in accordance with ■ MCOB 6.4.4 R(1), a *firm* may:
- (1) add extra information at the beginning and end of the *illustration*, such as conditions which are not covered by the *illustration*;
 - (2) include greater detail within each of the specified sections than that included in an *illustration* provided in accordance with ■ MCOB 5 (Pre-application disclosure); and
 - (3) leave blank, except for the text 'not applicable', sections that are irrelevant, such as:
 - (a) the section on insurance (see ■ MCOB 5.6.73 R to ■ MCOB 5.6.83 G), where the *customer* is not buying insurance from the *firm* and the *firm* does not require insurance to be in place; and
 - (b) the section and sub-sections on additional features (see ■ MCOB 5.6.92 R to ■ MCOB 5.6.112 G) if there are no additional features available.
- 6.4.8** **G** Examples of the additional information that should be included in the *offer document* in accordance with ■ MCOB 6.4.7 R (1) or ■ MCOB 6.4.7 R (2) is information about any retentions or reinspections that will be required by the *firm*.
- 6.4.9** **R** A *firm* must ensure that the *illustration* forms the main, and an integral, part of the *offer document*.
- 6.4.10** **G** ■ MCOB 6.4.9 R prevents a *firm* from preparing a separate *illustration* and simply adding it to the existing material provided to the *customer* at the offer stage.
- Other information contained in the offer**
- 6.4.11** **R** A *firm* must ensure that the *offer document* contains a prominent statement:
- (1) of the period for which the offer is valid;
 - (2) explaining, where the *regulated mortgage contract* contains features, such as additional unsecured borrowing facilities, which could result in the *customer* borrowing more money, that where such features are used, the amount of the *customer's* debt will increase;

- (3) explaining when any interest rate change on the *regulated mortgage contract* takes effect. This statement must be used, for example, to explain cases where an annual review system is used;
 - (4) explaining the consequences that might arise from the *customer* not entering into the *regulated mortgage contract*, including any fees that the *customer* has paid which will not be reimbursed;
 - (5) explaining that once the *regulated mortgage contract* is concluded there will be no right of withdrawal; and
 - (6) explaining that although no right of withdrawal exists the *customer* will have a right to repay the *regulated mortgage contract* in accordance with the terms of the *regulated mortgage contract*.
- 6.4.11A **R** If the *illustration* provided by the *firm* to the *customer* does not state the *repayment strategy* the *customer* intends to use, as permitted by ■ MCOB 6.4.4 R (7A), that information must be included in the *offer document*.
- 6.4.12 **G** In complying with ■ MCOB 6.4.11 R (6) the *firm* is not required to repeat in this section of the *offer document* the cash amounts of the *early repayment charges* set out in the *illustration* provided as part of the *offer document*. The *firm* may instead insert a reference to the relevant section of that *illustration*.
- 6.4.13 **R** A *firm* must ensure that the contact details section of the *offer document* (as required by ■ MCOB 5.6.122 R) also includes information on how to complain to the *firm* about the services provided by the *firm* in relation to the *regulated mortgage contract* and whether or not complaints may subsequently be referred to the *Financial Ombudsman Service*.
- 6.4.14 **G** ■ DISP 1 requires a *firm* to deal promptly and fairly with *complaints*, including referring to another *firm complaints* about that other *firm's* services.
- 6.4.15 **G** In addition to the information required by ■ MCOB 6.4.13 R, a *firm* may include information about how to complain to any other *firm* about the services that *firm* provided to the *customer* in relation to the *regulated mortgage contract*. For example, where the *customer* received advice from another *firm*, a *mortgage lender* may include contact details for the *firm* that provided the advice.
- 6.4.16 **R** If the *firm* knows at the point that the offer is made to the *customer* that its interest in the *regulated mortgage contract* will be assigned (by sale or transfer) and the *firm* will no longer be responsible for setting interest rates and charges, the *offer document* must:
- (1) state this; and
 - (2) state, where known, who will be responsible for setting interest rates and charges after the sale or transfer.

6.4.17 **R** Where ■ MCOB 6.4.16 R applies, if the name of the party who will be responsible for setting interest rates and charges after the sale or transfer is not known at the point the offer is made, the *firm* must notify the *customer* of this as soon as it becomes known.

6.4.18 **G** ■ MCOB 6.4.16 R and ■ MCOB 6.4.17 R could apply where the ownership of a *regulated mortgage contract* is transferred to a third party through *securitisation*.



6.5 Mortgages: information to be provided in the offer document or separately

Tariff of charges

- 6.5.1 R If a firm makes an offer to a customer with a view to entering into a regulated mortgage contract, it must provide the customer, along with the offer document, with a tariff of charges that could be incurred on the regulated mortgage contract.
- 6.5.2 R If the regulated mortgage contract has any linked borrowing or linked deposits, details of the charges on these linked facilities, for example charges payable on a linked current account, must be included in the firm's tariff of charges.
- 6.5.3 G A firm may include the tariff of charges as an integral part of the offer document, or provide it separately along with the offer document.

Mortgage credit cards

- 6.5.4 R If a firm makes an offer to a customer with a view to entering into a regulated mortgage contract that includes a mortgage credit card, it must provide the customer with information explaining that the card will not give the customer the statutory rights associated with traditional credit cards.
- 6.5.5 G A firm may include the information described in MCOB 6.5.4 R as an integral part of the offer document, or provide it separately along with the offer document.

Distance contracts with retail customers

- 6.5.6 R If a firm makes an offer to a consumer with a view to entering into a regulated mortgage contract which is a distance contract, it must provide the consumer with the following information with the offer document:
 - (1) [deleted]
 - (2) any contractual clause on law applicable to the regulated mortgage contract or on competent court, or both;

- (3) the language in which the contract is supplied and in which the *firm* will communicate during the course of the *regulated mortgage contract*; and
- (4) if not provided previously:
 - (a) all of the contractual terms and conditions of the *regulated mortgage contract* to which the *offer document* relates; and
 - (b) (i) an appropriate status disclosure statement (compliant with ■ GEN 4) for the *mortgage lender*;
 - (ii) the *mortgage lender's* Firm Reference Number; and
 - (iii) confirmation that the *customer* can check the *Financial Services Register* on the *FCA's* website www.fca.org.uk/firms/financial-services-register or by contacting the *FCA* on 0800 111 6768.




6.6 Mortgages: offer documents in place of illustrations

6.6.1

R

If a *firm* provides a *customer* with an *offer document* in place of an *illustration* in accordance with ■ MCOB 5.5.1 R (3), it must take reasonable steps to ensure that it provides the *offer document* in accordance with the requirements for providing an *illustration* in ■ MCOB 5.4 (Illustrations: general) and ■ MCOB 5.5 (Provision of illustrations).

			6.7 Business loans and loans to high net worth mortgage customers: tailored provisions	
6.7.1	R	<p>(1) Where the <i>regulated mortgage contract</i> is for a business purpose or a <i>high net worth mortgage customer</i>, a <i>firm</i> may choose to provide a <i>customer</i> with a <i>business offer document</i> or <i>high net worth offer document</i> (as applicable) instead of the <i>offer document</i> referred to in ■ MCOB 6.4.1 R.</p> <p>(2) If a <i>firm</i> provides a <i>customer</i> with a <i>business offer document</i> or <i>high net worth offer document</i> in accordance with (1), it must ensure that:</p> <ul style="list-style-type: none"> (a) an updated <i>business illustration</i> or <i>high net worth illustration</i> (as applicable), as required by ■ MCOB 5.7 (Business loans and loans to high net worth mortgage customers: tailored provisions), forms part of the <i>business offer document</i> or <i>high net worth offer document</i>; and (b) subject to the tailoring required by ■ MCOB 5.7 (Business loans and loans to high net worth mortgage customers: tailored provisions), the <i>business offer document</i> or <i>high net worth offer document</i> complies with ■ MCOB 6.4 (Mortgages: content of the offer document). 		
6.7.1A	G	<p><i>Firms</i> are reminded that in accordance with ■ MCOB 1.2.3 R, they should comply in full with <i>MCOB</i>, but in doing so may opt to take account of all tailored provisions in <i>MCOB</i> that relate to business loans or loans to <i>high net worth mortgage customers</i> (as applicable). Therefore, a <i>firm</i> may only follow the tailored provisions in ■ MCOB 6.7 in relation to one of these sectors if it also follows all other tailored provisions in <i>MCOB</i> that relate to that sector. In either case, the rest of <i>MCOB</i> applies in full.</p>		
6.7.2	G	<p>■ MCOB 6.7.1 R (2) means, for example, that the required text in ■ MCOB 6.4.4 R (7) should be replaced by text that satisfies the requirements for <i>business illustrations</i> or <i>high net worth illustrations</i> in ■ MCOB 5.7.5 R</p>		
6.7.3	G	<p>A <i>firm</i> may supplement the first paragraph of text prescribed in ■ MCOB 6.4.4 R (5)(a) to clarify that, while the <i>regulated mortgage contract</i> is not binding until the relevant mortgage document has been signed and funds have been released, the <i>business offer document</i> or <i>high net worth offer document</i> may form part of a wider set of negotiated facilities and that the <i>customer</i> is separately bound by these.</p>		



6.8 Home purchase plans

Offer document

- 6.8.1

R

(1) If a *firm* offers to *enter into a home purchase plan* with a *customer*, it must ensure that the *customer* is, or has been provided with an appropriate *offer document* in a *durable medium* which includes:

 - (a) the period for which the offer is valid;
 - (b) an explanation of the consequences that might arise from the *customer* not entering into the *home purchase plan* including details of any *fees* that the *customer* has paid which will not be refunded;
 - (c) an explanation of when the *customer* will become bound by the offer and the implications of this;
 - (d) the charges that a *customer* may incur under the plan, including the reason for, and amount of, each charge, when they are payable, whether they will be refunded and, if so, when;
 - (e) a financial information statement;
 - (f) the *firm's* contact details, including its name and address; and
 - (g) how to complain to the *firm* and whether or not complaints may subsequently be referred to the *Financial Ombudsman Service*.

(2) A *firm* may omit details of the charges that a customer may incur under a *home purchase plan* from the *offer document* if they are included in a separate *tariff of charges* provided to the customer at the same time.
- 6.8.2

Although an *offer document* may not match information given in a financial information statement before an offer is made, an *offer document* should be an accurate reflection of the actual costs of the *home purchase plan*.
- 6.8.3

G

A *firm* should bear in mind its obligations under *Principle 6*. For example, if a *firm* knows that its interest in a *home purchase plan* will be assigned and the *firm* will no longer be responsible for setting rental payments and charges, the *offer document* should state this fact and who will become responsible after the assignment (if this is not known at the offer stage the *customer* should be notified as soon as it becomes known).
- 6.8.4

R

A *firm* must ensure that the financial information statement forms the main, and an integral, part of the *offer document*.

Distance contracts with retail customers	
6.8.5	<p>R (1) A <i>firm</i> must communicate to a <i>consumer</i> the <i>distance marketing information</i> in a <i>durable medium</i> available and accessible to the <i>consumer</i> in good time before the <i>consumer</i> is bound by any <i>distance contract</i> or offer to enter into a <i>home purchase plan</i>.</p> <p>(2) If the <i>distance contract</i> or offer has been concluded at the <i>consumer's</i> request using a means of distance communication which does not enable providing the information in accordance with (1) then it must be communicated no later than immediately after the conclusion of the <i>home purchase plan</i>.</p>
6.8.5A	[Note: article 5 <i>Distance Marketing Directive</i>]
6.8.6	<p>G <i>Distance contract</i> information may be included in an <i>offer document</i> provided that it does not significantly increase its length.</p>



6.9

Regulated sale and rent back agreements

Process for concluding regulated sale and rent back agreements

6.9.1

R

A *SRB agreement provider* must not enter into a *regulated sale and rent back agreement* unless it follows the process outlined in this section.

Valuation of the property

- 6.9.2
- R
- (1) A *SRB agreement provider* intending to enter into a specific *regulated sale and rent back agreement* with a *SRB agreement seller* and before it complies with the other requirements in this section, must ensure that the property is properly valued by a valuer:

(a) that meets the competence and independence requirements (see ■ MCOB 2.6A.12 R, ■ MCOB 2.6A.12A R and ■ MCOB 2.6A.13 E); and

(b) using the definition of "market value" set out in the Valuation Standard of the Royal Institution of Chartered Surveyors from time to time.

(2) Where the *SRB agreement provider* has applied to a *mortgage lender* for financing for a proposed *regulated sale and rent back agreement* and the relevant lender in accordance with its standard lending practices requires its own valuation of the property to be carried out, the valuation will only satisfy the requirements of (1) if the property is properly valued by a valuer that meets the competence and independence requirements (see ■ MCOB 2.6A.12 R and ■ MCOB 2.6A.13 E).

(3) The *firm* must ensure that a copy of the valuation report accompanies the written pre-offer document at Stage One (see ■ MCOB 6.9.3 R).

(4) This *rule* does not apply if the *SRB agreement seller* has already obtained his own recent valuation of the property from a valuer that meets the competence and independence requirements (see ■ MCOB 2.6A.12 R and ■ MCOB 2.6A.13 E).

Written pre-offer document: Stage One

6.9.3

R

(1) As soon as a *SRB agreement provider* agrees the key terms of a proposed *regulated sale and rent back agreement* with a *SRB agreement seller* and before he becomes contractually committed to enter into the agreement, the *SRB agreement provider* must provide

the seller with a written pre-offer document summarising its key terms (Stage One).

- (2) The written pre-offer document must be in the form prescribed by ■ MCOB 6 Annex 2 R and must be adapted by the *firm*, as appropriate, to the extent specified.
- (3) The written pre-offer document must be accompanied by the *MoneyHelper* consumer factsheet on sale and rent back (even if the *firm* has already provided this) which the *firm* must provide to the *customer* in a *durable medium* and which may be accessed through <https://www.moneyhelper.org.uk> .
- (4) On providing the *MoneyHelper* consumer factsheet to the *SRB agreement seller*, the *firm* must give an oral explanation of what it contains, so as to ensure that the *SRB agreement seller* understands its contents, unless the *firm* has already done so.
- (5) The *firm* must ensure that the written pre-offer document is accompanied by all associated legal documents in draft form that the seller will need to sign at Stage Two (■ MCOB 6.9.10 R) to give effect to the proposed *regulated sale and rent back agreement*.

Cooling-off: No contact between SRB agreement provider and SRB agreement seller

6.9.4 R The *SRB agreement provider* must not instigate any contact or otherwise seek to communicate with the *SRB agreement seller* or a member of his family for a period of 14 days from the time that he has been supplied with the written pre-offer document at Stage One, together with the associated legal documentation in draft form.

6.9.5 R If the *SRB agreement seller* or a member of his family makes contact with the *SRB agreement provider* during the 14 day cooling-off period, for example because he wants to query a term of the written pre-offer document, the provider must endeavour to answer the query in as factual a manner as the circumstances permit but avoid any language or conduct which could be interpreted as amounting to an attempt to exert pressure on the *SRB agreement seller* to enter into the proposed agreement.

Exercise of cooling-off rights: costs and expenses

6.9.6 R The *SRB agreement provider* must not charge or seek to charge a potential *SRB agreement seller* for any fee, cost, or expense unless and until the seller has entered into the *regulated sale and rent back agreement* following the 14 day cooling-off period.

Responsibility of SRB agreement provider during cooling-off period

6.9.7 R The *SRB agreement provider* must not offer to or enter into a *regulated sale and rent back agreement* with the seller until the 14 day cooling off period has elapsed and must not allow the seller to become contractually committed to enter into any such agreement by signing any associated legal documentation to give effect to it within that period.

Requirement to notify the mortgage lender or home purchase provider where the seller is in arrears

6.9.8

R

As soon as a *SRB agreement provider* has provided the written pre-offer document at Stage One to a *SRB agreement seller* who is in *arrears* under his *regulated mortgage contract* or *home purchase plan* on the property to which the proposed *regulated sale and rent back agreement* relates, it must, in a *durable medium*, immediately notify the *mortgage lender*, *home purchase provider* or the providers of other loans that may be secured on the property:

- (1) explaining that the *firm* is proposing to enter into a *regulated sale and rent back agreement* with the seller and that, as required by the *FCA*, he will be given a cooling-off period of 14 days before deciding whether he wishes to enter into the proposed agreement;
- (2) summarising the key terms of the proposed agreement;
- (3) advising the lender or provider that the proposed agreement is likely to be relevant to any repossession action or other forbearance option the lender or provider may already be, or may be contemplating, taking with respect to the property; and
- (4) giving the *firm's* contact details should the lender or provider wish for any further information.

Data protection

6.9.9

G

Firms will need to consider the implications of *data protection legislation* under which personal data that a *firm*, as data controller, holds about its *customer* cannot be disclosed to a third party without their consent. In practice the *firm* is likely to need the *SRB agreement seller's* consent to disclosing the matters covered by **MCOB 6.9.8 R** to the relevant *mortgage lender* or *home purchase provider*.

Written offer document for signing: Stage Two

6.9.10

R

- (1) No sooner than 14 *days* after the *SRB agreement provider* has supplied the *SRB agreement seller* with the written pre-offer at Stage One, the provider must provide him with a written offer document for signing (Stage Two), accompanied by any formal legal documentation that the parties will need to sign to give effect to the proposed *regulated sale and rent back agreement*.
- (2) The written offer document for signing (Stage Two) must be in the form prescribed by **MCOB 6 Annex 3 R** and must be adapted by the *firm*, as appropriate, to the extent specified.

Records of written pre-offer documents and written offer documents for signing

6.9.11

R

The *SRB agreement provider* must keep a record of the written pre-offer document at Stage One and the written offer document for signing at Stage Two for a period of:

- (1) one year after the end of the fixed term of the tenancy under the *regulated sale and rent back agreement*; or

- (2) five years from the date of the disclosures and warnings, written offer documents and cooling-off period notices;
whichever is the longer.

Distance home purchase plans: information to be provided to retail customers.

This table belongs to MCOB 6.8.5 R.

1.1	R	Distance home purchase plans: information to be provided to retail customers
		(1) the identity and the main business of the <i>home purchase provider</i> , the geographical address at which the <i>home purchase provider</i> is established and any other geographical address relevant for the <i>consumer's</i> relations with the <i>home purchase provider</i> ;
		(2) the identity of the representative of the <i>home purchase provider</i> established in the <i>UK</i> and the geographical address relevant for the customer's relations with the representative, if such a representative exists;
		(3) when the <i>consumer's</i> dealings are with any professional other than the <i>home purchase provider</i> , the identity of this professional, the capacity in which he is acting vis-a-vis the <i>consumer</i> , and the geographical address relevant for the <i>consumer's</i> relations with this professional;
		(4) Details of the <i>Financial Services Register</i> and any other trade register in which the <i>home purchase provider</i> is entered and his registration number or an equivalent means of identification in that register;
		(5) confirmation that the <i>home purchase provider</i> is authorised and regulated by the <i>FCA</i> ;
		(6) the total price to be paid by the <i>consumer</i> to the <i>home purchase provider</i> for the financial service, including all related fees, charges and expenses, and all taxes paid via the <i>home purchase provider</i> or, when an exact price cannot be indicated, the basis for the calculation of the price enabling the <i>consumer</i> to verify it;
		(7) notice of the possibility that other taxes and/or costs may exist that are not paid via the <i>home purchase provider</i> or imposed by him;
		(8) any specific additional cost for the <i>consumer</i> of using the means of distance communication, if such additional cost is charged;
		(9) the absence of a right of withdrawal;
		(10) information on any rights the parties may have to terminate the contract early or unilaterally by virtue of the terms of the <i>distance contract</i> , including any penalties imposed by the contract in such cases;
		(11) [deleted]
		(12) any contractual clause on law applicable to the <i>distance contract</i> and/or on competent court;
		(13) in which language, or languages, the contractual terms and conditions, and the prior information referred to in this table are supplied, and furthermore in which language, or languages, the <i>home purchase provider</i> , with the agreement of the <i>consumer</i> , undertakes to communicate during the duration of this <i>distance contract</i> ; and
		(14) whether or not there is an out-of-court complaint and redress mechanism for the <i>consumer</i> that is party to the <i>distance contract</i> and, if so, the methods for having access to it;

- (15) whether or not compensation may be available from the *compensation scheme* should the *firm* be unable to meet its liabilities, and information about any other applicable named compensation scheme; and, for each applicable scheme, the extent and level of cover and how further information can be obtained; and
- (16) all the contractual terms and conditions of the *home purchase plan* to which the *offer document* relates.

[Note: articles 3 and 5 *Distance Marketing Directive*]

1.2 G A *firm* is not required to provide this information if it has already done so, for example in an initial disclosure document, and that information remains accurate.

- **Written Pre-offer Document of a regulated sale and rent back agreement.**

MCOB 6 Annex 2R - Written Pre-offer Document of a regulated sale and rent back agreement.

- Cooling-Off Document of a regulated sale and rent back agreement.

MCOB 6 Annex 3R - Cooling-Off Document of a regulated sale and rent back agreement.

Chapter 6A

MCD disclosure at the offer stage

		<div>6A.1</div> <div>Application and purpose</div>
6A.1.1	R	This chapter applies to a <i>firm</i> that is an <i>MCD mortgage lender</i> .
6A.1.2	R	<p>This chapter applies to an offer made by a <i>firm</i> to a <i>consumer</i> with a view to the <i>firm</i>:</p> <ul style="list-style-type: none">(1) entering into an MCD mortgage contract;(2) varying the terms of an MCD mortgage contract entered into by the <i>consumer</i> in any of the following ways:<ul style="list-style-type: none">(a) adding or removing a party;(b) making a further advance; or(c) switching all or part of the <i>MCD regulated mortgage contract</i> from one interest rate to another;(whether or not the <i>consumer</i> agrees to enter into the <i>MCD regulated mortgage contract</i> or variation).(3) In ■ MCOB 6A, a reference to varying an <i>MCD regulated mortgage contract</i> is to be read as including a reference to an offer to vary an existing MCD regulated mortgage in a manner specified in this section.
6A.1.3	G	■ MCOB 6A amplifies <i>Principle 6</i> and <i>Principle 7</i> . The purpose of ■ MCOB 6A is to ensure that a <i>customer</i> receives a clear <i>offer document</i> to enable them to check the features and price of the <i>MCD regulated mortgage contract</i> before they enter into it.



6A.2 General

6A.2.1 **R** Any *communication* required by **MCOB 6A** to be given to a *consumer* by a *firm* must be in a *durable medium*.
[Note: article 14(3) of the *MCD*]



6A.3 MCD mortgages: binding offer, content of the offer document and reflection period

6A.3.1 R

- (1) If a *firm* offers to enter into an *MCD regulated mortgage contract* with a *consumer*, it must provide the *consumer* with a binding offer set out in an *offer document*.
- (2) The *firm* may also provide an *ESIS*.
- (3) The *firm's* offer in the *offer document* must be on the basis of the information in the *ESIS* relevant to that offer.
- (4) When an *MCD mortgage lender* provides the *consumer* with a binding offer, that offer must be accompanied by an *ESIS* where the characteristics of the offer are different from the information contained in the *ESIS* previously provided.

[Note: article 14(3)(b) and (4) of the *MCD*]

6A.3.2 R

- (1) If a *firm* offers to vary an *MCD regulated mortgage contract* with a *consumer*, it must provide the *consumer* with an *offer document*.
- (2) The *firm* may also provide an *ESIS*.
- (3) The *firm's* offer in the *offer document* must be on the basis of the information in the *ESIS* relevant to that offer.
- (4) When an *MCD mortgage lender* offers to vary an *MCD regulated mortgage contract* with a *consumer*, the *offer document* must be accompanied by an *ESIS* where:
 - (a) the characteristics of the offer are different from the information contained in any *illustration* or *ESIS* previously provided in relation to the offer.
 - (b) no *illustration* or *ESIS* has been previously provided in relation to the offer.

6A.3.3 G

- (1) ■ MCOB 6A.3.1 R does not prevent a binding offer from being subject to lawful conditions, including conditions which make the binding offer subject to one or more of the matters listed below:
 - (a) there being no material change to the facts and circumstances relating to the binding offer which occurs after the date on which the binding offer is made;

- (b) the fact that the consumer has not knowingly provided incomplete or inaccurate information for the purpose of the assessment of affordability, and has not knowingly falsified or withheld the information provided for the purpose of that assessment.
- (2) The material changes referred to in (1)(a) include a material change:
 - (a) affecting the condition, value or title to the property;
 - (b) in the borrower's circumstances (such as loss of employment or further secured borrowing taken out after the borrower's application for an *MCD regulated mortgage contract*) which is likely to have a material impact upon the borrower's ability to afford the loan.
- (3) However, the lender cannot use conditions in binding offers as a means of avoiding the requirement to undertake a proper affordability assessment under ■ **MCOB 11** before the binding offer is made.

Reflection period

6A.3.4

R

- (1) Where an *MCD mortgage lender* provides the *consumer* with a binding offer, it must give the *consumer* a reflection period of at least seven days.
- (2) The *MCD mortgage lender* must ensure that, during the reflection period:
 - (a) the offer remains binding on the *MCD mortgage lender*;
 - (b) the *consumer* may accept the offer at any time.

[Note: article 14(6) of the *MCD*]

6A.3.5

G

The purpose of the reflection period is to provide the *consumer* with sufficient time to compare offers, assess their implications and make an informed decision.

6A.3.6

R

A *firm* must provide the *consumer* with a copy of the draft agreement for the *MCD regulated mortgage contract* at the beginning of the reflection period.

[Note: article 14(11) of the *MCD*]

Self-build mortgages and other tranching forms of lending

6A.3.7

G

Where it is known that a loan will be released in instalments, for example in the case of a self-build mortgage, the loan can involve a binding offer, *ESIS* and the reflection period either for:

- (1) the full amount; or
- (2) an initial amount, which would be replaced by a binding offer, an *ESIS* and reflection period for a larger amount and so on.

		Records
6A.3.8	R	<p>(1) A <i>firm</i> must make an adequate record of each <i>offer document</i> which it issues to a <i>consumer</i> under ■ MCOB 6A.</p> <p>(2) The record required by (1) must be retained for one year from the date that the <i>offer document</i> is issued to the <i>consumer</i>.</p> <p>(3) If, in accordance with ■ MCOB 6A.4 (Information to be provided in the offer document or separately), information is included in a separate document that is sent with the <i>offer document</i>, that information must also be retained as part of the record required by (1).</p>
		Information contained in the offer
6A.3.9	R	<p>A <i>firm</i> must ensure that the <i>offer document</i> contains a prominent statement explaining:</p> <p>(1) the period for which the offer is valid;</p> <p>(2) where the <i>MCD regulated mortgage contract</i> contains features, such as additional unsecured borrowing facilities, which could result in the <i>consumer</i> borrowing more money than, where such features are used, the amount of the <i>consumer's</i> debt will increase;</p> <p>(3) when any interest rate change on the <i>MCD regulated mortgage contract</i> takes effect. This statement must be used, for example, to explain cases where an annual review system is used;</p> <p>(4) the consequences that might arise from the <i>consumer</i> not entering into the <i>MCD regulated mortgage contract</i>, including any fees that the <i>consumer</i> has paid which will not be reimbursed;</p> <p>(5) that once the <i>MCD regulated mortgage contract</i> is concluded, there will be no right of withdrawal; and</p> <p>(6) that, although no right of withdrawal exists, the <i>consumer</i> will have a right to repay the <i>MCD regulated mortgage contract</i> in accordance with the terms of the <i>MCD regulated mortgage contract</i>.</p>
6A.3.10	G	<p>When setting the period for which the offer is valid (referred to in ■ MCOB 6A.3.9R (1), a <i>firm</i> should bear in mind the requirement under ■ MCOB 6A.3.4 R for a reflection period.</p>
6A.3.11	R	<p>The <i>offer document</i> must state the <i>repayment strategy</i> the <i>consumer</i> intends to use.</p>
6A.3.12	G	<p>The <i>offer document</i> may contain information about any retentions or re-inspections that will be required by the <i>firm</i>.</p>
6A.3.14	R	<p>A <i>firm</i> must ensure that the <i>offer document</i> includes information on how to complain to the <i>firm</i> about the services provided by the <i>firm</i> in relation to the <i>MCD regulated mortgage contract</i> and whether or not complaints may subsequently be referred to the <i>Financial Ombudsman Service</i>.</p>

- 6A.3.15** **G** ■ DISP 1 requires a *firm* to deal promptly and fairly with *complaints*, including referring to another *firm's complaints* about that other *firm's* services.
- 6A.3.16** **G** In addition to the information required by ■ MCOB 6A.3.9 R, a *firm* may include information about how to complain to any other *firm* about the services that *firm* provided to the *consumer* in relation to the *MCD regulated mortgage contract*. For example, where the *consumer* received advice from another *firm*, an *MCD mortgage lender* may include contact details for the *firm* that provided the advice.
- 6A.3.17** **R** If the *firm* knows, at the point that the offer is made to the *consumer*, that its interest in the *MCD regulated mortgage contract* will be assigned (by sale or transfer) and the *firm* will no longer be responsible for setting interest rates and charges, the *offer document* must:
- (1) state this; and
 - (2) state, where known, who will be responsible for setting interest rates and charges after the sale or transfer.
- 6A.3.18** **R** Where ■ MCOB 6A.3.17 R applies, if the name of the party who will be responsible for setting interest rates and charges after the sale or transfer is not known at the point the offer is made, the *firm* must notify the *consumer* of this as soon as it becomes known.
- 6A.3.19** **G** ■ MCOB 6A.3.17 R and ■ MCOB 6A.3.18 R could apply where the ownership of an *MCD regulated mortgage contract* is transferred to a third party through *securitisation*.

		<div></div> <div>6A.4</div> <div>MCD mortgages: information to be provided in the offer document or separately</div>
		<div>Tariff of charges</div> <div></div>
6A.4.1	R	If a <i>firm</i> makes an offer to a <i>consumer</i> with a view to entering into or varying an <i>MCD regulated mortgage contract</i> , it must provide the <i>consumer</i> , along with the <i>offer document</i> , with a <i>tariff of charges</i> that could be incurred on the <i>regulated mortgage contract</i> .
6A.4.2	R	If the <i>MCD regulated mortgage contract</i> has any <i>linked borrowing</i> or <i>linked deposits</i> , details of the charges on these linked facilities (for example, charges payable on a linked current account) must be included in the <i>firm's tariff of charges</i> .
6A.4.3	G	A <i>firm</i> may include the <i>tariff of charges</i> as an integral part of the <i>offer document</i> , or provide it separately along with the <i>offer document</i> .
		<div>Mortgage credit cards</div> <div></div>
6A.4.4	R	If a <i>firm</i> makes an offer to a <i>consumer</i> with a view to entering into or varying an <i>MCD regulated mortgage contract</i> that includes a <i>mortgage credit card</i> , it must provide the <i>customer</i> with information explaining that the card will not give the <i>customer</i> the statutory rights associated with traditional credit cards.
6A.4.5	G	A <i>firm</i> may include the information described in ■ MCOB 6A.4.4 R as an integral part of the <i>offer document</i> , or provide it separately along with the <i>offer document</i> .

6A.5 MCD distance contracts with retail customers

6A.5.1

R

If a *firm* makes an offer to a *consumer* with a view to entering into or varying an *MCD regulated mortgage contract* which is a *distance contract*, it must provide the *consumer* with the following information with the *offer document*:

- (1) [deleted]
- (2) any contractual clause on law applicable to the *MCD regulated mortgage contract* or a competent court, or both;
- (3) the language in which the contract is supplied and in which the *firm* will communicate during the course of the *MCD regulated mortgage contract*; and
- (4) if not provided previously:
 - (a) all of the contractual terms and conditions of the *MCD regulated mortgage contract* to which the *offer document* relates; and
 - (b)
 - (i) an appropriate status disclosure statement (compliant with **GEN 4**) for the *MCD mortgage lender*;
 - (ii) the *MCD mortgage lender's* firm reference number; and
 - (iii) confirmation that the *customer* can check the *Financial Services Register* on the *FCA's* website www.fca.org.uk/firms/financial-services-register or by contacting the *FCA* on 0800 111 6768.

6A

Chapter 7

Disclosure at start of contract and after sale

7.1Application

Who?

7.1.1 **R** Subject to **MCOB 7.1.2A R**, this chapter applies to a *firm* in a category listed in column (1) of the table in **MCOB 7.1.2 R** in accordance with column (2) of that table.

7.1.2 **R** This table belongs to **MCOB 7.1.1R**

(1) Category of firm	(2) Applicable section
<i>mortgage lender</i>	whole chapter except MCOB 7.8
<i>mortgage administrator</i>	MCOB 7.1 - MCOB 7.3 and MCOB 7.5 - MCOB 7.7 .
<i>mortgage adviser and mortgage arranger</i>	MCOB 7.1 - MCOB 7.3 and MCOB 7.6.7 R - MCOB 7.7.4 R
<i>home purchase provider</i>	MCOB 7.1.1 R to MCOB 7.1.4 R , MCOB 7.2 , MCOB 7.3 and MCOB 7.8
<i>home purchase administrator</i>	As for a <i>home purchase provider</i> except MCOB 7.8.1 R and MCOB 7.8.2 G do not apply
<i>home purchase adviser and home purchase arranger</i>	MCOB 7.1.1 R to MCOB 7.1.4 R , MCOB 7.2 and MCOB 7.8.7 G
<i>reversion provider</i> <i>reversion administrator</i> <i>reversion adviser</i> <i>reversion arranger</i>	see MCOB 9.6 for the application of this chapter
<i>SRB administrator</i>	MCOB 7.9
<i>SRB agreement provider</i>	MCOB 7.1 to MCOB 7.3 and MCOB 7.9

7.1.2A **R** **MCOB 7.6.7 R** to **MCOB 7.6.17 R** do not apply to a *firm* that is an *MCD mortgage lender* or *MCD mortgage credit intermediary*.

7.1.2B **G** **MCOB 7B** applies to a *firm* that is an *MCD mortgage lender* or *MCD mortgage credit intermediary*, instead of **MCOB 7.6.7 R** to **MCOB 7.6.17 R**.

What?

- 7.1.3** **R** This chapter applies if a *firm*:
- (1) enters into a *home finance transaction* with a *customer*; or
 - (2) administers a *home finance transaction* which was entered into with a *customer*; or
 - (3) *arranges or advises on* or makes a further advance or other variation to the terms of a *home finance transaction* entered into with a *customer*.
- 7.1.4** **R** This chapter applies in relation to further advances and other variations (as specified in **■ MCOB 7.6.7 R** - **■ MCOB 7.7.4 R** in relation to a *regulated mortgage contract*) regardless of whether they are variations to an existing *home finance transaction* or are such that they involve the customer entering into a new *home finance transaction*.
- 7.1.5** **R** This chapter also applies in relation to *regulated mortgage contracts* in circumstances where the original *mortgage lender* has passed on ownership of the loan to a third party through *securitisation*. In such a case, the rules in **■ MCOB 7.5** - **■ MCOB 7.7.4 R** will apply to the *firm* which administers the *regulated mortgage contract*.
- 7.1.6** **R** In **■ MCOB 7.6.7 R** (Further advances), **■ MCOB 7.6.18 R** (Rate switches) and **■ MCOB 7.6.22 R** (Addition or removal of a party to the contract), if a *customer* submits an informal application as his first contact with a *firm*, the *illustration* required to be provided to a *customer* in accordance with those *rules* must be provided and the transaction must not proceed until the *customer* has made a formal application confirming that it should proceed.
- 7.1.7** **G** [deleted]
- 7.1.8** **R** In relation to a *lifetime mortgage*, this chapter is modified by **■ MCOB 9** (Equity release: product disclosure).

7.2 Purpose

7.2.1

G

(1) This chapter amplifies *Principle 6* and *Principle 7*.

(1A) This chapter requires information to be supplied to *customers* at the start of a *regulated mortgage contract* to enable them to check that the *regulated mortgage contract* has been set up in accordance with their requirements and to notify them of the first and subsequent payments.

(2) Where a *firm* provides services to a *customer* in relation to a further advance, rate switch, or addition or removal of a party to a *regulated mortgage contract*, this chapter also requires that the *customer* is provided with an *illustration* to make clear the price and features associated with that variation.

(3) This chapter also ensures that *customers* are supplied with information which enables them to check the payments and charges on a *home finance transaction*, to keep track of the transactions on, and the features of, a *home finance transaction* and to be kept informed of material changes.

(4) To ensure that a *customer* has a record of the information required by this chapter, ■ MCOB 7.3.2 R requires the information to be provided to the *customer* in a *durable medium*.



7.3 General

7.3.1 **G** MCOB 3A.2.1 (Fair, clear and not misleading communication) applies to information provided to a *customer* by a *firm* in accordance with this chapter.

7.3.2 **R** A *firm* must provide all of the information required by this chapter in a *durable medium*.

Information provided in more than one document

7.3.3 **R** The information required by this chapter, **MCOB 7**, may be provided in more than one document, provided the use of several documents does not materially diminish the significance of any information the *firm* is required to give the *customer*, or the ease with which this can be understood.

7.4 Mortgages: disclosure at the start of the contract

Disclosure requirements

7.4.1

R

(Subject to ■ MCOB 7.7.5 R) a *firm* that enters into a regulated mortgage contract with a *customer* must provide the *customer* with the following information before the *customer* makes the first payment under that *regulated mortgage contract*:

- (1) the amount of the first payment required;
- (2) the amount of the subsequent payment(s) if different from the first payment;
- (3) the method by which the payment will be collected (for example, by direct debit) and the date of collection of the first and subsequent payment;
- (4) confirmation of whether, in connection with the *regulated mortgage contract*, insurance or *investments* (such as a *repayment strategy*, term assurance, buildings and contents insurance or payment protection insurance) have been purchased through the *firm*;
- (5) the first premium (and subsequent premium where different) for any insurance or *investments* purchased through the *firm* in connection with the *regulated mortgage contract*;
- (6) confirmation of whether the insurance or *investment* premiums in (5) are to be collected with the mortgage payment or separately (where the latter applies, the *firm* must give details or state that these will be confirmed separately);
- (7) confirmation of whether the *regulated mortgage contract* is a *repayment mortgage* or *interest-only mortgage*, or a combination of both;
- (8) if all or part of the *regulated mortgage contract* is an *interest-only mortgage*, a reminder to the *customer* to check that a *repayment strategy* is in place, if the *repayment strategy* is not provided by the *firm*;
- (9) what to do if the *customer* falls into a *payment shortfall*, explaining the benefit of making early contact with the *firm*, providing the address and telephone number of a contact point for the *firm*, and drawing the *customer's* attention to the *arrears* charges set out in the *tariff of charges*;

		(10) confirmation of any <i>linked borrowing</i> and <i>linked deposits</i> ; and (11) whether the <i>regulated mortgage contract</i> permits the <i>customer</i> to make any overpayments or underpayments of the amounts due.
7.4.2	R	The information in ■ MCOB 7.4.1 R must be provided to the <i>customer</i> in a single communication, except (4), (5) and (6) which may be provided separately.
7.4.3	G	In the case of a <i>regulated mortgage contract</i> under which the loan is advanced to the <i>customer</i> in separate tranches, the amount required under ■ MCOB 7.4.1 R(1) will be the repayment relating to the first tranche. The amount(s) required under ■ MCOB 7.4.1 R(2) will need to reflect the fact that when each subsequent tranche is advanced, the payment that the <i>customer</i> will need to make will change.
		Record keeping
7.4.4	R	(1) A <i>firm</i> must make and retain an adequate record of the information that it provides to each <i>customer</i> at the start of the <i>regulated mortgage contract</i> in accordance with this section. (2) The record required by (1) must be maintained for a year from the date that the information is provided to the <i>customer</i> .

7.5 Mortgages: statements

Annual statement: requirement

7.5.1 **R** Subject to **MCOB 7.5.2 R**, a *firm* must provide the *customer* with a statement at least once a year (or, in relation to the first statement, within the first 13 months):

- (1) covering the *regulated mortgage contract* and any *tied product* purchased through the *firm*; and
- (2) giving information about the existence of any *linked borrowing* or *linked deposits*, or any other products purchased through the *firm* where the payments for those products are combined with the payments on the *regulated mortgage contract*.

7.5.2 **R** Where a *tied product* is operated separately from the *regulated mortgage contract*, for example where the premiums on a tied insurance product are not combined with payments on the *regulated mortgage contract*, the statement required by **MCOB 7.5.1 R** in relation to the tied product may be provided in a separate communication.

Annual statement: content

7.5.3 **R** The statement required by **MCOB 7.5.1 R** must contain the following:

- (1) except in the case of *mortgage credit cards*, information on the type of *regulated mortgage contract*, including:
 - (a) a clear statement of whether the *regulated mortgage contract* is an *interest-only mortgage*, or *repayment mortgage*, or a combination of both; and
 - (b) a prominent reminder, where all of the *regulated mortgage contract* is an *interest-only mortgage*, that:
 - (i) the *customer's* payments to the *firm* do not include any costs of the *repayment strategy* (if that is the case); and
 - (ii) the *customer* should have in place arrangements to pay off the capital, and should check the performance of any *investments* they might have in place for this purpose;
 - (c) a prominent reminder, where only part of the *regulated mortgage contract* is an *interest-only mortgage*, that:
 - (i) the *customer's* payments to the *firm* do not include any costs of the *repayment strategy* (if that is the case); and

- (ii) the *customer* should have in place arrangements to pay off the amount of the loan that is on an *interest-only* basis, and should check the performance of any *investments* they might have in place for this purpose;
- (2) details of the following transactions and information on the *regulated mortgage contract* during the period since the last statement (or, where the statement is the first statement, since the *customer* entered into the *regulated mortgage contract*):
 - (a) the date and amount of each payment made;
 - (b) the amount of each payment that was due during the statement period;
 - (c) the rate(s) of interest applicable to the *regulated mortgage contract* during the statement period and, if applicable, the date(s) on which the rate(s) of interest changed;
 - (d) the amount of interest charged under the *regulated mortgage contract* during the statement period; and
 - (e) any other amounts charged under the *regulated mortgage contract* during the statement period, including fees and any amounts due in relation to *tied products*;
- (3) a reminder that the *customer* should contact the *firm* if they are unable to make their regular payments under the *regulated mortgage contract*; and
- (4) information at the date the statement is issued on:
 - (a) the amount owed by the *customer* under the *regulated mortgage contract*;
 - (b) the actual remaining term of the *regulated mortgage contract* (but if the term of the *regulated mortgage contract* is open-ended this should be clearly stated);
 - (c) the date at which any *early repayment charges* on the *regulated mortgage contract* cease to apply;
 - (d) where applicable, the *early repayment charge* that applies, expressed as a monetary amount (see ■ MCOB 5.6.84 R);
 - (e) the cost of redeeming the *regulated mortgage contract* (this must be shown as the sum of ■ MCOB 7.5.3 R(4)(a) and ■ MCOB 7.5.3 R(4)(d) plus any *linked borrowing* that cannot be retained (including the outstanding balances) plus any other charges that can be quantified at the date the statement is issued); if additional charges are payable that cannot be quantified at the point that the statement is issued (for example if the *customer* is in arrears) a warning must be included to that effect; and
 - (f) where applicable, the date on which the requirement for the *customer* to purchase any *tied products* from the *firm* comes an end.

7.5.3A

R

- (1) ■ MCOB 7.5.3 R (1)(b) does not apply where as a result of the *customer* having payment difficulties:

		<p>(a) the <i>regulated mortgage contract</i> has changed to an <i>interest-only mortgage</i>; and</p> <p>(b) interest is being deferred and capitalised by the <i>firm</i>.</p> <p>(2) Paragraph (1) applies only where the <i>customer</i> continues to have payment difficulties.</p>
7.5.3B	R	■ MCOB 7.5.3R(1)(b) and ■ MCOB 7.5.3R(1)(c) do not apply where the <i>regulated mortgage contract</i> is a <i>retirement interest-only mortgage</i> .
7.5.4	R	[deleted]
7.5.5	R	Where a <i>firm</i> provides a <i>customer</i> with a statement containing the information set out in ■ MCOB 7.5.3 R(2) more frequently than once a year, the information set out in ■ MCOB 7.5.3 R(1), ■ MCOB 7.5.3 R(3) and ■ MCOB 7.5.3 R(4) may be provided in a separate communication, but must be provided at least once a year.
7.5.6	G	Whether a <i>firm</i> is likely to provide the information set out in ■ MCOB 7.5.3 R(2) more frequently than once a year will depend on the nature of the <i>regulated mortgage contract</i> . In determining how frequently to provide that information, a <i>firm</i> should take into account the need to keep the <i>customer</i> informed of any changes in the amount they owe, the <i>customer's</i> expectations and, where appropriate, the duration of the loan. For example, for a <i>mortgage credit card</i> the information might be provided monthly.
7.5.7	R	[deleted]
		Annual statement - additional content for customers in arrears
7.5.8	G	If a <i>firm</i> chooses to use the annual statement to provide a <i>customer</i> with a regular written statement in accordance with ■ MCOB 13.5.1 R (Statements), as described in ■ MCOB 13.5.2 G(4), it will need to include the actual <i>payment shortfall</i> in the annual statement.
7.5.9	G	In some circumstances, a <i>firm</i> may agree a temporary payment plan with a <i>customer</i> that does not involve the <i>customer</i> paying the full amount he owes in each payment period. Where an account in <i>arrears</i> is subject to such a payment plan, and the amount that falls due each payment period is greater than the agreed payment, the <i>firm</i> will still need to show the payments that were due in accordance with ■ MCOB 7.5.3 R(2)(b). However, in these circumstances, the <i>firm</i> may wish to add information to acknowledge that a temporary payment plan is in place.

Annual statement: additional content if tariff of charges has changed

7.5.10

R

If the *tariff of charges* has changed since the last annual statement was sent to the *customer* (or, where the annual statement is the first statement, since the *customer* entered into the *regulated mortgage contract*) and a *firm* has not already sent a revised *tariff of charges* to the *customer*, it must include one with the annual statement.



7.6 Mortgages: event-driven information

Notification of payment changes and other material changes to terms and conditions

- 7.6.1 R A *firm* must give the *customer* reasonable notice, in advance, of:
- (1) any changes to the payments that the *customer* is required to make resulting from interest rate changes; and
 - (2) any material change by the *firm* (other than changes which come within ■ MCOB 7.6.2 R) to the terms and conditions of the *regulated mortgage contract*, where that change is permitted without the *customer's* prior consent.

Notification where the regulated mortgage contract is sold, assigned or transferred

- 7.6.2 R A *firm* must notify a *customer*, as soon as the details are known, of who will be responsible for setting interest rates and charges on the *regulated mortgage contract* if any interest in the *regulated mortgage contract* is to be sold, assigned, or transferred, and the *firm* will no longer be responsible for this.
- 7.6.3 R For the purposes of ■ MCOB 7.6.2 R the *firm* may be treated as continuing to be responsible for setting interest rates and charges if, under the terms of the sale, assignment or transfer, it is expected that the rates and charges will continue to be set by reference to, and be no higher than, those set by the *firm* for other contracts of the same kind.

- 7.6.4 G ■ MCOB 7.6.2 R and ■ MCOB 7.6.3 R may be relevant where a *regulated mortgage contract* is transferred to a third party through *securitisation*.

Notification where additional borrowing taken up

- 7.6.5 R Where the *customer* has, in accordance with the terms of the *regulated mortgage contract*, taken up an additional tranche of borrowing on a mortgage that is released in tranches and this did not require any further approval of the *mortgage lender*, a *firm* must provide confirmation as soon as possible of:
- (1) the new amount owed by the *customer* under the *regulated mortgage contract*;

		<p>(2) the amount of each payment that is due; and</p> <p>(3) the interest rate charged.</p>
7.6.6	G	<p>Examples of where ■ MCOB 7.6.5 R will apply are the release of tranches of money to the <i>customer</i> in relation to a self-build mortgage or other instalment mortgage.</p>
		<p>Further advances</p>
7.6.7	R	<p>Before a <i>customer</i> submits an application to a <i>firm</i> for a further advance on an existing <i>regulated mortgage contract</i> or for a further advance that is a new <i>regulated mortgage contract</i>, if the further advance requires the approval of the <i>mortgage lender</i>, the <i>firm</i> must provide the <i>customer</i> with either</p> <p>(1) an <i>illustration</i> that complies with the requirements of ■ MCOB 5 (Pre-application disclosure) and ■ MCOB 7.6.9R to ■ MCOB 7.6.17R; or</p> <p>(2) an <i>ESIS</i> that complies with ■ MCOB 5A (MCD pre-application disclosure) and ■ MCOB 7B.1.4R (MCD: further advances);</p> <p>unless:</p> <p>(3) such an <i>illustration</i> or <i>ESIS</i> has already been provided; or</p> <p>(4) the <i>regulated mortgage contract</i> is for a business purpose and the <i>firm</i> has chosen to comply with the tailored provisions for <i>regulated mortgage contracts</i> for a business purpose; or</p> <p>(5) the <i>regulated mortgage contract</i> is with a <i>high net worth mortgage customer</i> and the <i>firm</i> has chosen to comply with the tailored provisions for loans to <i>high net worth mortgage customers</i>;</p> <p>(see ■ MCOB 7.7 (Business loans and loans to high net worth mortgage customers: tailored provisions)).</p>
7.6.8	G	<p>If a number of different <i>firms</i> are involved in relation to the transaction referred to in ■ MCOB 7.6.7 R, having regard to ■ MCOB 2.5.4 R(2), those <i>firms</i> should take reasonable steps to establish which one of them is responsible for providing the <i>customer</i> with the <i>illustration</i> or <i>ESIS</i> required by ■ MCOB 7.6.7 R.</p>
7.6.9	R	<p>An <i>illustration</i> provided in accordance with ■ MCOB 7.6.7R(1) must:</p> <p>(1) be based on the amount of the further advance only;</p> <p>(2) use the term 'additional borrowing' in place of the term 'mortgage' where appropriate throughout the titles and text of the <i>illustration</i>;</p> <p>(3) include an additional section headed: 'Total borrowing' and numbered '7a' after Section 7, including the following text:</p> <p>(a) "This section gives you information about how your mortgage will be affected by taking out this additional borrowing. Talk to</p>

- [your mortgage lender] [insert name of mortgage lender] if you are not sure of the details of your current mortgage."; and
- (b) a clear statement explaining the total amount that the *customer* will owe if he takes out the additional borrowing and what the *customer's* new payments will be.
- (4) include a clear statement, where all or part of the *regulated mortgage contract* is an *interest-only mortgage* and the amount paid in each instalment does not include the cost of a *repayment strategy*, to indicate that these payments do not include the cost of any savings plan or other investment.
- 7.6.10** G In order to comply with ■ MCOB 7.6.9 R(1), a *firm* should calculate the *APR* required by ■ MCOB 5.6.34 R on the basis of the further advance amount only.
- 7.6.11** G For the purposes of ■ MCOB 7.6.9 R(3) and (4):
- (1) a *customer's* existing mortgage includes a mortgage entered into prior to 31 October 2004 as well as a *regulated mortgage contract*;
- (2) the frequency of payments is that in ■ MCOB 5.6.40 R; and
- (3) a *firm* may generally rely on information provided by the *customer* unless, taking a common-sense view of this information, it has reason to doubt it.
- 7.6.12** G An example of the total borrowing section referred to in ■ MCOB 7.6.9 R(3) is in ■ MCOB 7 Annex 1.
- 7.6.13** R Where not all of the mortgage interest rates described in accordance with ■ MCOB 5.6.25 R(2)(a) apply for the term of the loan part to which they apply, the *firm* must disclose the amount that will be paid in each instalment when complying with ■ MCOB 7.6.9 R(3)(b), including the following information:
- (1) when a change in payment will occur;
- (2) the reason for the change in payment; and
- (3) confirmation that the payment illustrated assumes rates will not change.
- 7.6.14** R
- (1) The *illustration* provided in accordance with ■ MCOB 7.6.7R(1) may diverge from the requirements of ■ MCOB 5 (Pre-application disclosure) where it is necessary to do so in order to reflect the fact that the *illustration* is being provided for a further advance.
- (2) The *ESIS* provided under ■ MCOB 7.6.7R(2) may diverge from the requirements of ■ MCOB 5A where it is necessary to do so to reflect that the *ESIS* is being provided for a further advance.

7.6.15 **G** ■ MCOB 7.6.14 R allows the *firm* to make changes to wording and to add, remove or alter information that would otherwise be misleading for the *customer*. For example, the *firm* may add text to let the *customer* know if conditions applying to the original mortgage do not apply to the additional borrowing, such as 'The early repayment charges applying to your existing loan do not apply to this additional borrowing.'

7.6.16 **R** (1) (In the case of a *business illustration*), ■ MCOB 5.6.16 R is replaced with the following: "Section 1: 'About this illustration' Under the section heading 'About this illustration', the following text must be included: 'We are required by the Financial Conduct Authority (FCA) - the independent watchdog that regulates financial services - to provide you with this illustration.' "

(2) (In the case of any other *illustration*), ■ MCOB 5.6.16 R is replaced with the following; "Section 1: 'About this illustration' Under the section heading 'About this illustration, the following text must be included: 'We are required by the Financial Conduct Authority (FCA) - the independent watchdog that regulates financial services - to provide you with this illustration. All firms selling mortgages are required to give illustrations like this one, that contain similar information presented in the same way.' "

7.6.17 **R** (1) Where the further advance for which the *customer* has applied is in the form of an annual insurance premium secured by a first legal charge, a *firm*:

(a) may, instead of providing an *illustration* or *ESIS* in accordance with ■ MCOB 7.6.7 R, provide confirmation of the matters required by ■ MCOB 7.6.5 R; and

(b) where (a) applies use the following text: "Your annual insurance premium has been/will be added to your mortgage account [unless you pay it by dd/mm/yy]. If you choose to pay it in full on or before dd/mm/yy there will be no extra cost. If you do not, interest will be charged on the amount outstanding at [insert details of the applicable interest rate e.g. 'the same rate as your mortgage' or 'the standard variable rate which is currently x%']. "

(2) If the insurance premium described in (1) is not an annual premium, (1)(a) and (b) apply but a *firm* must amend the text in (1)(b) to reflect the length of the contract.

Rate switches

7.6.18 **R** Before a *customer* submits an application to a *firm* to change all or part of a *regulated mortgage contract* from one interest rate to another (for example, a transfer from a variable rate *regulated mortgage contract* to a fixed rate *regulated mortgage contract*, or from one fixed rate *regulated mortgage contract* to another fixed rate *regulated mortgage contract*), the *firm* must provide the *customer* with either:

(1) an *illustration* for the whole loan that complies with the requirements of ■ MCOB 5 (Pre-application disclosure); or

		<p>(2) an <i>ESIS</i> for the whole loan that complies with the requirements of ■ MCOB 5A (MCD Pre-application disclosure),</p> <p>unless such an <i>illustration</i> or <i>ESIS</i> has already been provided.</p>
7.6.19	G	<p>If a number of different <i>firms</i> are involved in relation to the transaction referred to in ■ MCOB 7.6.18 R, having regard to ■ MCOB 2.5.4 R(2), those <i>firms</i> should take reasonable steps to establish which one of them is responsible for providing the <i>customer</i> with the <i>illustration</i> or <i>ESIS</i> required by ■ MCOB 7.6.18 R.</p>
7.6.20	R	<p>(1) The <i>illustration</i> provided in accordance with ■ MCOB 7.6.18 R may diverge from the requirements of ■ MCOB 5 where it is necessary to do so to reflect the fact that the <i>illustration</i> is being provided for a rate switch.</p> <p>(2) The <i>ESIS</i> provided under ■ MCOB 7.6.18R (2) may diverge from the requirements of ■ MCOB 5A where it is necessary to do so to reflect that the <i>ESIS</i> is being provided for a rate switch.</p>
7.6.21	G	<p>■ MCOB 7.6.20R (1) and ■ (2) allow a <i>firm</i> to make changes to wording and to add, remove or alter information that would otherwise be misleading to the <i>customer</i>. For example, a <i>firm</i> could replace the statement in Section 3 of the <i>illustration</i>, explaining that if information provided by the <i>customer</i> changes, the <i>illustration</i> may be affected, with a statement explaining that the <i>illustration</i> is based on information gathered in the past, which may no longer be accurate.</p>
		<p>Switch to a retirement interest-only mortgage</p>
7.6.21A	R	<p>Where a <i>firm</i> proposes to vary the term of a <i>regulated mortgage contract</i> so that it becomes a <i>retirement interest-only mortgage</i>:</p> <p>(1) ■ MCOB 7.6.18R to ■ MCOB 7.6.21G apply as though references to a rate switch were references to such a contract variation; and</p> <p>(2) ■ MCOB 5.4 applies as though a reference to entering into a <i>home finance transaction</i> included such a contract variation.</p>
		<p>Addition or removal of a party to the contract</p>
7.6.22	R	<p>Before a <i>customer</i> submits an application to add or remove a party to a <i>regulated mortgage contract</i>, a <i>firm</i> must provide any <i>customer</i> who will remain or become a party to the contract with either:</p> <p>(1) an <i>illustration</i> for the whole loan that complies with the requirements of ■ MCOB 5 (Pre-application disclosure); or</p> <p>(2) an <i>ESIS</i> for the whole loan which complies with the requirements of ■ MCOB 5A (MCD Pre-application disclosure).</p>

7.6.23	G	<p>The <i>FCA</i> would not view:</p> <ol style="list-style-type: none"> (1) a simple notification of the death of a party to the <i>regulated mortgage contract</i> as an application for the purposes of ■ MCOB 7.6.22 R; or (2) a guarantor as a party to a <i>regulated mortgage contract</i>; <p>so ■ MCOB 7.6.22 R does not mean that someone becoming a surviving joint borrower on or a guarantor to the <i>regulated mortgage contract</i> should receive an <i>illustration</i>.</p>
7.6.24	G	<p>If a number of different <i>firms</i> are involved the transaction referred to in ■ MCOB 7.6.22 R, having regard to ■ MCOB 2.5.4 R(2), those <i>firms</i> should take reasonable steps to establish which one of them is responsible for providing the <i>customer</i> with the <i>illustration</i> or <i>ESIS</i> required by ■ MCOB 7.6.22 R.</p>
7.6.25	R	<ol style="list-style-type: none"> (1) The <i>illustration</i> provided in accordance with ■ MCOB 7.6.22 R may diverge from the requirements of ■ MCOB 5 (Pre-application disclosure) where it is necessary to do so to reflect the fact that the <i>illustration</i> is being provided in respect of the addition or removal of a party to the contract. (2) The <i>ESIS</i> provided under ■ MCOB 7.6.22R (2) may diverge from the requirements of ■ MCOB 5A (MCD Pre-application disclosure) where it is necessary to do so to reflect that the <i>ESIS</i> is being provided for the addition or removal of a party to the contract.
7.6.26	G	<p>■ MCOB 7.6.25R (1) and ■ (2) allow the <i>firm</i> to make changes to wording and to add, remove or alter information that would otherwise be misleading to the <i>customer</i>. For example, a <i>firm</i> may choose not to include a property valuation in the 'What you have told us' section of the <i>illustration</i> if the property value does not have a bearing on the terms of the <i>regulated mortgage contract</i>.</p>
7.6.27	R	[deleted]
<p>Changes to the amount of each payment due</p>		
7.6.28	R	<p>If a <i>customer</i> requests, or agrees to, a change to a <i>regulated mortgage contract</i> (other than a change as described in ■ MCOB 7.6.7 R to ■ MCOB 7.6.26 G) that changes the amount of each payment due, a <i>firm</i> must provide the <i>customer</i> with the following information, in a single communication (subject to ■ MCOB 7.6.28AR (3)), before the change takes effect:</p> <ol style="list-style-type: none"> (1) the amount outstanding on the <i>regulated mortgage contract</i> at the date the change is requested; (2) the payment due and the frequency of payments; where it is known that the payment will change (for example at the end of a fixed rate period), the new payment and the date of the change must also be shown;

- (3) the rate of interest applying to the *regulated mortgage contract*; where it is known that the rate of interest will change, the new rate and the date of the change must also be shown;
- (4) the type of interest rate (for example fixed, or discounted); where it is known that the type of interest rate will change the new type and the date of the change must also be shown;
- (5) where the *regulated mortgage contract* will change to an *interest-only mortgage*, a prominent reminder that the *customer* should have in place arrangements to repay the capital, using the following text: 'You will still owe [insert amount borrowed or, where part of the *regulated mortgage contract* is an *interest-only mortgage*, insert the amount borrowed under the *interest-only mortgage*] at the end of the mortgage term. You will need to make separate arrangements to repay this. When comparing the new payments on this mortgage with your previous payments, remember to add any money you may need to pay into a separate savings plan to build up a lump sum to repay the amount you have borrowed.'; and
- (6) details of any charges that apply for changing the *regulated mortgage contract*.

7.6.28A

R

- (1) ■ MCOB 7.6.28 R (5) does not apply where the *regulated mortgage contract* is changing to an *interest-only mortgage* and interest is being deferred and capitalised by the *firm* as a result of the *customer* having payment difficulties.
- (2) Where (1) applies, the *firm* must instead provide a prominent reminder to the *customer* of the amount outstanding together with an explanation of the implications of deferred payments being capitalised, before the change in the *regulated mortgage contract* takes effect.
- (3) The reminder in (2) may be provided in a separate communication.

7.6.29

G

Examples of where ■ MCOB 7.6.28 R will apply are where the *customer* requests a change from an *interest-only mortgage* to a *repayment mortgage*, requests a change to the term of his mortgage or agrees to his *arrears* being capitalised.

7.6.30

G

If a number of different *firms* are involved in relation to the transaction referred to in ■ MCOB 7.6.28 R, having regard to ■ MCOB 2.5.4 R(2), those *firms* should take reasonable steps to establish which one of them is responsible for providing the *customer* with the information required by ■ MCOB 7.6.28 R.

Use of illustrations or ESISs in place of information under MCOB 7.6.28R

7.6.31

R

Where ■ MCOB 7.6.28 R applies, a *firm* may issue either:

- (1) an *illustration* in accordance with ■ MCOB 5 (Pre-application disclosure) in place of the information set out in ■ MCOB 7.6.28 R; or

		<p>(2) an <i>ESIS</i> in accordance with ■ MCOB 5A (MCD Pre-application disclosure),</p> <p>in place of the information set out in ■ MCOB 7.6.28 R.</p>
7.6.31A	R	<p>(1) The <i>illustration</i> provided under ■ MCOB 7.6.31R (1) may diverge from the requirements of ■ MCOB 5 (Pre-application disclosure) where it is necessary to do so to reflect the circumstances in which it is being provided.</p> <p>(2) The <i>ESIS</i> provided under ■ MCOB 7.6.31R (2) may diverge from the requirements of ■ MCOB 5A (MCD Pre-application disclosure) where it is necessary to do so to reflect the circumstances in which it is being provided.</p>
7.6.31B	G	<p>■ MCOB 7.6.31AR (1) and ■ (2) allow the <i>firm</i> to make changes to wording and to add, remove or alter information that would otherwise be misleading to the <i>customer</i>.</p>
7.6.32	R	<p>Where ■ MCOB 7.6.28 R applies and the <i>customer</i> simultaneously requests a rate switch or the addition or removal of a party to the contract, a <i>firm</i> will not be required to provide the information in accordance with ■ MCOB 7.6.28 R where it is provided as part of:</p> <p>(1) an <i>illustration</i> issued in accordance with ■ MCOB 7.6.18R (1) or ■ MCOB 7.6.22R (1); or</p> <p>(2) an <i>ESIS</i> issued under ■ MCOB 7.6.18R (2) or ■ MCOB 7.6.22R (2).</p>
		<p>Simultaneous request for a rate switch and addition or removal of a party to a contract</p>
7.6.33	G	<p>(1) Where a <i>customer</i> simultaneously requests a rate switch and the addition or removal of a party to the loan, a <i>firm</i> will not be required to provide the <i>customer</i> with a separate <i>illustration</i> for each in accordance with ■ MCOB 7.6.18R (1) and ■ MCOB 7.6.22R (1). The <i>firm</i> may provide the <i>customer</i> with a single <i>illustration</i> that complies with the requirements of ■ MCOB 5 (Pre-application disclosure) for both.</p> <p>(2) Where a <i>customer</i> simultaneously requests a rate switch and the addition or removal of a party to the loan, a <i>firm</i> will not be required to provide the <i>customer</i> with a separate <i>ESIS</i> for each under ■ MCOB 7.6.18R (2) and ■ MCOB 7.6.22R (2). The <i>firm</i> may provide the <i>customer</i> with a single <i>ESIS</i> that complies with the requirements of ■ MCOB 5A (MCD Pre-application disclosure) for both.</p>
		<p>European Standardised Information Sheet (ESIS): additional APRC</p>
7.6.34	R	<p>Where a <i>firm</i> is required to provide a <i>customer</i> with an <i>ESIS</i> under ■ MCOB 7.6.18R (2) or ■ MCOB 7.6.22R (2), or a <i>firm</i> chooses to provide a <i>customer</i> with an <i>ESIS</i> under ■ MCOB 7.6.31R (2), the <i>firm</i> need not include the additional APRC required under ■ MCOB 10A.1.6 R, Section 4 of ■ MCOB 5A Annex 1 and ■ MCOB 5A Annex 2, 6.2R to 6.8R.</p>

7.6.35 **R** Where a *firm* provides a *customer* with an *ESIS* under ■ MCOB 7.6.18R (2), ■ MCOB 7.6.22R (2) or ■ MCOB 7.6.31R (2), that includes an additional *APRC*, the *firm* must either:

- (1) base that additional *APRC* on the *APRC* previously provided to the *customer* under ■ MCOB 5A (MCD Pre-application disclosure); or
- (2) calculate that additional *APRC* in accordance with ■ MCOB 10A.1.6 R, Section 4 of ■ MCOB 5A Annex 1 and ■ MCOB 5A Annex 2, 6.2R to 6.12R.

7.6.36 **G** When considering whether to apply ■ MCOB 7.6.35R (1) or ■ MCOB 7.6.35R (2), a *firm* should consider its obligations under MCOB 3A.2.1R(2) to communicate in a way that is fair, clear and not misleading.



7.7 Business loans and loans to high net worth mortgage customers: tailored provisions

Further advances

7.7.1

R

- (1) Where, in relation to a *regulated mortgage contract* for a business purpose or a *high net worth mortgage customer* who is not a consumer under an *MCD regulated mortgage contract*, a customer either:
 - (a) seeks an immediate increase in the borrowing provided under the *regulated mortgage contract*; or
 - (b) overdraws on the borrowing under the *regulated mortgage contract*;
 the further advance rules in ■ [MCOB 7.6.7 R](#) to ■ [MCOB 7.6.17 R](#) do not apply.
- (2) Where (1) applies, the *firm* must within five *business days* (for a loan for a business purpose) or in good time before the *customer* is bound by the *regulated mortgage contract* (for a *high net worth mortgage customer*) provide the *customer* with either:
 - (a) a *business illustration* or *high net worth illustration* (as applicable) for the new total borrowing; or
 - (b) the following information, in a single communication:
 - (i) the new amount outstanding on the *regulated mortgage contract*;
 - (ii) details of any changes in the repayment arrangements or interest rate charged as a result of the change;
 - (iii) where there is a new *early repayment charge* or a change to the existing *early repayment charge*, the maximum amount payable as an *early repayment charge* in respect of the *regulated mortgage contract*; and
 - (iv) details of any charges that apply for changing the *regulated mortgage contract*.

7.7.1A

G

Firms are reminded that in accordance with ■ [MCOB 1.2.3 R](#), they should comply in full with *MCOB*, but in doing so may opt to take account of all tailored provisions in *MCOB* that relate to business loans or loans to *high net worth mortgage customers*. Therefore, a firm may only follow the tailored provisions in ■ [MCOB 7.7](#) in relation to one of these sectors if it also follows

all other tailored provisions in *MCOB* that relate to that sector. In either case, the rest of *MCOB* applies in full.

7.7.2 **G** Where a *customer* remains in breach, for more than one month, of an agreed borrowing limit or of an obligation to repay where the *regulated mortgage contract* does not have a regular repayment plan, *firms* are reminded that **■ MCOB 13** (Payment difficulties and repossessions) applies.

7.7.3 **R** Where a *customer* applies for a further advance that is a *regulated mortgage contract* for a business purpose or a *high net worth mortgage customer* who is not a *consumer* under an *MCD regulated mortgage contract* and **■ MCOB 7.7.1 R** does not apply:

- (1) the *business illustration* or *high net worth illustration* must be based upon the total borrowing; and
- (2) **■ MCOB 7.6.9 R** to **■ MCOB 7.6.10 G** and **■ MCOB 7.6.12 G** do not apply.

Arrangements to repay capital

7.7.4 **R** Where **■ MCOB 7.6.28 R(5)** applies, a *firm* may omit the final sentence of the required text where it is aware, in the context of an *interest-only mortgage*, that the *customer's* intention is not to use a savings plan as a *repayment strategy*.

Disclosure

7.7.5 **R** **■ MCOB 7.4** (Disclosure at the start of the contract) does not apply in relation to a *regulated mortgage contract* that is for a business purpose or a *high net worth mortgage customer*.

7.8 Home purchase plans

7.8

General

Note: The rules in this chapter regarding how a *firm* must provide information required by this section apply (see ■ MCOB 7.3).

Post-sale disclosure

7.8.1

R

A *firm* that enters into a home purchase plan with a *customer* must ensure that before making the first payment the *customer* is provided with a prominent reminder that the *customer* should check that his right to occupy the property has been properly safeguarded.

7.8.2

G

A *firm* is reminded of its obligation to ensure that its *customer's* interests are protected to a reasonable standard (see ■ MCOB 2.6A).

Annual statement

7.8.3

R

A *firm* must provide the *customer* with a statement at least once a year (or, in relation to the first statement, within the first 13 months of the plan term) covering the *home purchase plan* and including information about:

- (1) payments due and made during the period since the last statement (or, where the statement is the first statement, since the *customer* entered into the *home purchase plan*), including:
 - (a) whether the payment is a rental payment or a purchase payment;
 - (b) the applicable rental rate(s);
 - (c) where relevant, the *customer's* beneficial interest in the property;
- (2) the remaining acquisition amount;
- (3) the actual remaining term;
- (4) the ability of the *customer* to terminate it early and sell the property, together with any charges that would apply.

Annual statement - additional content for customers in arrears

7.8.4

G

If a *firm* uses the annual statement to provide a *customer* with a written statement relating to *arrears*, it will need to include the actual *payment shortfall* in the annual statement (see ■ MCOB 13.5.2 G (4)).

7.8.5 **G** In some circumstances, a *firm* may agree a temporary payment plan with a *customer* that does not involve the customer paying the full amount he owes in each payment period. Where an account in *arrears* is subject to such a payment plan, and the amount that falls due each payment period is greater than the agreed payment, the *firm* will still need to show the payments that were due during the period since the last statement. However, in these circumstances, the *firm* may wish to add information to acknowledge that a temporary payment plan is in place.

Tariff of charges

7.8.6 **R** A *firm* must include a *tariff of charges* with the annual statement if it has changed since the previous version provided.

Event-driven information

7.8.7 **G** When a post-sale variation of the *home purchase plan* is proposed or takes place, a *firm* should have regard to the *Principles* (in particular, *Principles* 6 and 7) in determining the action it should take and what information to provide to the *customer*.



7.9 Post-sale disclosure for regulated sale and rent back agreements

7.9.1

R

Where the terms of a *regulated sale and rent back agreement* include a provision conferring upon the *SRB agreement seller* a right to receive any sum, or exercise any option, in relation to the transaction after it has been concluded, the *SRB agreement provider* must take reasonable steps to inform the *SRB agreement seller* in good time of any steps which the *SRB agreement seller* must take if he wishes to receive the sum or exercise the option.

An example of the Total Borrowing section.

This Annex belongs to MCOB 7.6.12G

7a. Total Borrowing	
This section gives you information about how your mortgage will be affected by taking out this additional borrowing. Talk to your mortgage lender if you are not sure of the details of your current mortgage.	
When this additional borrowing is added to your existing mortgage, the total amount you owe will be £ x and your monthly payments based on this amount will be	Monthly Payment
Initial monthly payment	£a
After 12 months the discount period on your further borrowing will end, and assuming rates do not change, your new monthly payment will be	£b
After 26 months the fixed rate period on a portion of your mortgage will end, and assuming rates do not change, your new monthly payment will be	£c
Remember to add the cost of any savings plan to these monthly payments	

Chapter 7A

Additional MCD disclosure: start of contract and after sale



7A.1 Application and general

- 7A.1.1 **R** This chapter applies to a *firm* that is an *MCD mortgage lender* or an *MCD mortgage administrator*.
- 7A.1.2 **R** A *firm* must provide the information required by this chapter in a *durable medium*.

7A.2 Notification of interest-rate changes

7A.2.1 **R** When giving notice to a *consumer* of any changes that the *consumer* is required to make resulting from interest-rate changes for an *MCD regulated mortgage contract*, a *firm* must:

- (1) give notice of the amount of the payments to be made after the new interest-rate change takes effect; and
- (2) where the number or frequency of the payments will change, give particulars of these changes.

[Note: article 27(1) of the *MCD*]

7A

7A.3 Early repayment disclosure

7A.3.1

R

- (1) If a *consumer* notifies a *firm* that they wish to discharge their obligations under an *MCD regulated mortgage contract* prior to its expiry, the *firm* must provide the *consumer*, without delay, with the information necessary to allow them to consider that option.
- (2) The information under (1) must:
 - (a) quantify the implications for the *consumer* of discharging their obligations prior to the expiry of the *MCD regulated mortgage contract*; and
 - (b) clearly set out any assumptions that have been used.
- (3) The assumptions under (2)(b) must be reasonable and justifiable.

[Note: article 25(4) of the *MCD*]

7A.4 Foreign currency loans and significant exchange-rate movement disclosure

7A.4.1

R

- (1) A *firm* must warn any *consumer* with a *foreign currency loan*, on a regular basis, where the value of either:
- (a) the *total amount payable* by the *consumer* which remains outstanding; or
 - (b) the regular instalments;
- varies by more than 20% from what it would be if the exchange rate between the currency of the *MCD regulated mortgage contract* and the currency of the *EEA State*, applicable at the time of the conclusion of the *MCD regulated mortgage contract*, were applied.
- (2) The warning in (1) must inform the *consumer* of a rise in the *total amount payable* by the *consumer*, setting out the right to convert to an alternative currency, where applicable, and the conditions for doing so. It must also explain any other applicable mechanisms for limiting the exchange-rate risk to which the *consumer* is exposed.

[Note: article 23(4) of the *MCD*]

7A.4.2

R

A *firm* must disclose to the *consumer* its arrangements for complying with the obligations in ■ **MCOB 7A.4.1 R** in the *MCD regulated mortgage contract*.

[Note: article 23(6) of the *MCD*]

7A

7A



7A.5 Notification of changes resulting from auctions on the capital market

7A.5.1 R

In relation to an *MCD regulated mortgage contract*, where there is an auction on the capital markets which will, or might reasonably be expected to, result in an interest-rate change, the *firm* must give the *consumer*, in good time before the auction, notice in a *durable medium* of:

- (1) the upcoming procedure for the auction; and
- (2) an indication of how the interest rates could be affected.

[Note: article 27(4) of the *MCD*]

Chapter 7B

MCD: further advances

7B

		<div><div></div><div>7B.1</div></div> <div>Information to be provided for further advances</div>
7B.1.1	<div>R</div>	This chapter applies to a <i>firm</i> that is an <i>MCD mortgage lender</i> or an <i>MCD mortgage credit intermediary</i> .
7B.1.2	<div>R</div>	Before a <i>consumer</i> submits an application to a <i>firm</i> for a further advance on an existing or new <i>MCD regulated mortgage contract</i> or for a further advance that is a new <i>MCD regulated mortgage contract</i> , if the further advance requires the approval of the <i>MCD mortgage lender</i> , the <i>firm</i> must provide the <i>consumer</i> with an <i>ESIS</i> that complies with ■ MCOB 5A (MCD pre-application disclosure) and ■ MCOB 7B.1.4 R for the further advance, unless an <i>ESIS</i> has already been provided.
7B.1.3	<div>G</div>	If a number of different <i>firms</i> are involved in relation to the transaction in ■ MCOB 7B.1.2 R , having regard to ■ MCOB 2.5.4 R (2) , those <i>firms</i> should take reasonable steps to establish which one of them is responsible for providing the <i>consumer</i> with the <i>ESIS</i> required by ■ MCOB 7B.1.2 R .
7B.1.4	<div>R</div>	The <i>ESIS</i> provided under ■ MCOB 7B.1.2 R must be based on the amount of the further advance only.
7B.1.5	<div>G</div>	To comply with ■ MCOB 7B.1.4 R , a <i>firm</i> should calculate the <i>APRC</i> on the basis of the further advance amount only.

Chapter 8

Equity release: advising and selling standard

8.1Application

Who?

This chapter applies to a *firm* in a category listed in column (1) of the table in ■ MCOB 8.1.2 R in accordance with column (2) of that table.

This table belongs to ■ MCOB 8.1.1 R

(1) Category of firm	(2) Applicable section
<i>equity release provider</i>	whole chapter except MCOB 8.5A and MCOB 8.7, MCOB 8.6A in accordance with MCOB 8.1.2A R
<i>equity release adviser</i>	whole chapter MCOB 8.7 does not apply in relation to a <i>lifetime mortgage</i>
<i>equity release arranger</i>	whole chapter except MCOB 8.5A. MCOB 8.7 does not apply in relation to a <i>lifetime mortgage</i>

■ MCOB 8.6A only applies to an *equity release provider* in relation to entering into an *equity release transaction* where there is no *firm* which is arranging (bringing about) the *equity release transaction* to which ■ MCOB 8.6A applies.

■ MCOB 8.1.2A R means that the situations where ■ MCOB 8.6A applies to an *equity release provider* include where an *equity release intermediary* has been involved in arranging (bringing about) an *equity release transaction* but is no longer involved in the transaction.

What?

(1) This chapter applies to a *firm* which in the course of carrying on an *equity release activity* enters into, advises on or *arranges* an *equity release transaction* or a variation of the terms of an *equity release transaction*.

(2) In respect of *arranging* or *advising on a home reversion plan* for a *customer* who is acting in his capacity as an *unauthorised reversion provider*, only ■ MCOB 8.1, ■ MCOB 8.2 and ■ MCOB 8.7 apply.

(1) Initial disclosure requirements apply only in relation to varying the terms of an *equity release transaction* entered into by the *customer* in any of the following ways:

- 8.1.6** **G** *Firms are reminded that MCD lifetime mortgages are also subject to the advising and selling standards in ■ MCOB 4.4A and ■ MCOB 4A that apply to MCD regulated mortgage contracts.*

8.2 Purpose

8.2.1 G [deleted]

8.2.2 G

- (1) This chapter amplifies *Principle 6* (Customers' interests), *Principle 7* (Communications with clients) and *Principle 9* (Customers: relationships of trust).
- (2) The purpose of this chapter is to ensure that:
 - (a) *customers* are adequately informed about the nature of the service they may receive from a *firm* in relation to *equity release transactions*. In particular *firms* need to make clear to *customers* the range of *equity release transactions* available from them and the basis of the *firm's* remuneration;
 - (b) where advice is given, it is suitable for the *customer*;
 - (c) *customers* for *equity release transactions* receive advice in all cases;
 - (d) subject to certain limited exceptions (which are set out in ■ MCOB 8.6A), *execution-only sales* are only provided where the *customer* has rejected advice which has been given, has been warned about the implications of proceeding and has specifically instructed the *firm* that he wishes to do so.
- (3) This chapter also implemented certain requirements of the *Distance Marketing Directive* in relation to *distance mortgage mediation contracts*.

8.3 Application of rules in MCOB 4

8.3.1

R

- (1) (a) Subject to (c), ■ MCOB 4.1 to ■ MCOB 4.6A (with the modifications stated in ■ MCOB 8.3.2B R to ■ MCOB 8.3.4 R) apply to a *firm* where the *home finance transaction* is a *lifetime mortgage*.
- (b) ■ MCOB 4.1 to ■ MCOB 4.4A (with the modifications stated in ■ MCOB 8.3.2B R to ■ MCOB 8.3.4 R) apply to a *firm* where the *home finance transaction* is a *home reversion plan*, except for those provisions that by their nature are only relevant to *regulated mortgage contracts*.
- (c) ■ MCOB 4.6A applies to a *lifetime mortgage* only if it is not an *interest roll-up mortgage*.
- (2) The table in ■ MCOB 8.3.3 R shows how the relevant *rules* and *guidance* in ■ MCOB 4 must be modified by replacing the cross-references in that chapter with the relevant cross-references to *rules* and *guidance* in ■ MCOB 8.
- (3) The table in ■ MCOB 8.3.4 R replaces certain *rules* and *guidance* in ■ MCOB 4 with *rules* and *guidance* from ■ MCOB 8.
- (4) The terms that by their nature are relevant only to *regulated mortgage contracts* must be replaced with the appropriate equivalent terms and expressions for *home reversion plans*.

8.3.1A

G

The *rules* and *guidance* that are not relevant to *home reversion plans* are those related, for example, to interest rates, *APR*, *higher lending charge*, *mortgage credit cards*, multi-part mortgages and foreign currency mortgages.

8.3.1B

G

Firms should substitute equivalent home reversion terminology for *lifetime mortgage* terminology, where appropriate. Examples of terms and expressions that should be replaced in relation to *home reversion plans* are 'loan' or 'amount borrowed', which should be replaced with 'amount released' or 'amount to be released', as appropriate, and '*mortgage lender*' and '*mortgage intermediary*' which should be replaced with '*reversion provider*' and '*reversion intermediary*'.

8.3.2

R

[deleted]

8.3.2A

G

[deleted]

8.3.2B **R** For the purposes of ■ MCOB 4.4A.2R (1) there is one relevant market for *equity release transactions*. Accordingly, a *firm* offering a *customer* only *lifetime mortgages* or only *home reversion plans* must include in its disclosure under ■ MCOB 4.4A.1R (1) that it is limited in that regard in the range of products that it can offer to the *customer*.

8.3.2C **G** In the light of ■ MCOB 8.3.2B R, a *firm* may wish to consider using a sentence appropriate to the circumstances, along the following lines:

- “We offer a comprehensive range of equity release products from across the market.”
- “We sell home reversion plans only and not lifetime mortgages, though we will consider all home reversion plans available in the market.”

8.3.3 **R** **Table of modified cross-references to other rules: This table belongs to ■ MCOB 8.3.1 R.**

Subject	Rule or guidance	Reference in rule or guidance	To be read as a reference to:
Additional disclosure for <i>distance mortgage mediation contracts</i>	MCOB 4.5	MCOB 4	MCOB 4 as modified by MCOB 8

8.3.4 **R** **Table of rules in ■ MCOB 4 replaced by rules in ■ MCOB 8: This table belongs to ■ MCOB 8.3.1 R.**

Subject	Rule(s)	Rule(s) replaced by
Advised sales	MCOB 4.7A	MCOB 8.5A
Execution-only sales	MCOB 4.8A	MCOB 8.6A



8.4 [deleted]

8.4.1

R

[deleted]

8.5A Advised sales

- 8.5A.1** G (1) ■ MCOB 8.5A sets out standards to be observed by *firms* when advising a particular *customer* on *equity release transactions*.
- (2) The *rules* at ■ MCOB 8.6A require *firms* selling *equity release transactions* to provide *advice* to the *customer*, subject to the *customer's* right to reject *advice* which has been given and to proceed on an execution-only basis.
- 8.5A.2** R **Suitability**
.....
If a *firm* gives *advice* to a particular *customer* to enter into an *equity release transaction*, or to vary an existing *equity release transaction*, it must take reasonable steps to ensure that the *equity release transaction* is, or after the variation will be, suitable for that *customer*.
- 8.5A.3** R In ■ MCOB 8.5A, a reference to *advice* to enter into an *equity release transaction* is to be read as including *advice* to vary an existing *equity release transaction*.
- 8.5A.4** G A *firm* should take reasonable steps to obtain from a *customer* all information likely to be relevant for the purposes of ■ MCOB 8.5A.
- 8.5A.5** R For the purposes of ■ MCOB 8.5A.2 R:
- (1) an *equity release transaction* will not be suitable for a *customer* unless the *equity release transaction* is appropriate to the needs and circumstances of the *customer*;
- (2) a *firm* must base its determination of whether an *equity release transaction* is appropriate to a *customer's* needs and circumstances on the facts disclosed by the *customer* and other relevant facts about the *customer* of which the *firm* is or should reasonably be aware;
- (3) no *advice* must be given to a *customer* to enter into an *equity release transaction* if there is no *equity release transaction* which is suitable from the product range offered by the *firm*;
- (4) if a *mortgage lender* is dealing with an existing *customer* with a *payment shortfall* and has concluded that there is no *equity release transaction* which satisfies the requirements of ■ MCOB 8.5A.2 R, the *firm* must nonetheless have regard to ■ MCOB 13.3.

8.5A.6

R

When a *firm* assesses whether the *equity release transaction* is appropriate to the needs and circumstances of the *customer* for the purposes of ■ MCOB 8.5A.5 R, the factors it must consider include the following:

- (1) whether the benefits to the *customer* outweigh any adverse effect on:
 - (a) the *customer's* entitlement (if any) to means-tested benefits; and
 - (b) the *customer's* tax position (for example the loss of an Age Allowance);
- (2) alternative methods of raising the required funds such as, in particular:
 - (a) (where relevant) a local authority (or other) grant; or
 - (b) taking a further advance under an existing *regulated mortgage contract* (including a *lifetime mortgage*), or a new *regulated mortgage contract* (including a *lifetime mortgage*) to replace an existing one, or an additional release under an existing *home reversion plan*;
- (3) whether the *customer's* requirements appear to be within the *equity release provider's* known eligibility criteria for the *equity release transaction*;
- (4) the *customer's* preferences for his estate (for example, whether the *customer* wishes to be certain of leaving a bequest to his family or others);
- (5) the *customer's* health and life expectancy;
- (6) the *customer's* future plans and needs (for example, whether the *customer* is likely to need to raise further funds or is likely to move house);
- (7) whether the *customer* has a preference or need for stability in the amount of payments (where payments are required) especially having regard to the impact on the *customer* of significant interest rate changes in the future;
- (8) whether the *customer* has a preference or need for any other features of an *equity release transaction*; and
- (9) for *lifetime mortgages* only, whether it is more appropriate for the *customer* to pay any fees or charges in relation to the *lifetime mortgage* up front, rather than adding them to the sum advanced (see also ■ MCOB 4.6A).

8.5A.7

G

Examples of eligibility criteria in ■ MCOB 8.5A.6R (3) are: the amount that the *customer* wishes to borrow or to release; the loan-to-value ratio; the age of the *customer*; the value of the property which would be the subject of the *equity release transaction*.

The customer's needs and circumstances: means-tested benefits, customer's tax position and alternative methods of finance

8.5A.8

R

In considering the factor at ■ **MCOB 8.5A.6R (1)**, where a *firm* has insufficient knowledge of means-tested benefits and tax allowances to reach a conclusion, the *firm* must refer a *customer* to an appropriate source or sources such as the Pension Service, HM Revenue and Customs or Citizens Advice Bureau (or other similar agency) to establish the required information.

8.5A.9

E

- (1) In considering the factor at ■ **MCOB 8.5A.6R (2)(a)**, a *firm* should:
- (a) establish, on the basis of information given by the *customer* about his needs and objectives, whether these appear to be within the general scope of a local authority (or other) grant (for example where the *customer* requires funds for essential repairs to his property); and
 - (b) refer a *customer* to an appropriate source such as his local authority or Citizens Advice Bureau (or other similar agency) to identify whether such a grant is available to him.
- (2) Compliance with (1) may be relied upon as tending to show compliance with ■ **MCOB 8.5A.6R (2)(a)**.

8.5A.10

R

If for any reason a *customer*:

- (1) declines to seek further information on means-tested benefits, tax allowances or the scope for local authority (or other) grants; or
- (2) rejects the conclusion of a *firm* that alternative methods of raising the required funds are more suitable;

a *firm* can advise the *customer* (in accordance with the remaining requirements of this chapter) to enter into an *equity release transaction* where there is an *equity release transaction* (or more than one *equity release transaction*) that is appropriate to the needs and circumstances of the *customer*, but must confirm to the *customer*, in a *durable medium*, the basis on which the *advice* has been given.

Debt consolidation

8.5A.11

R

In relation to ■ **MCOB 8.5A.5R (1)**, when a *firm* advises a *customer* in relation to entering into an *equity release transaction* where the main purpose for doing so is the consolidation of existing debts by the *customer*, it must also take account of the following in assessing whether the *equity release transaction* is suitable for the *customer*:

- (1) the costs associated with increasing the period over which a debt is to be repaid;
- (2) whether it is appropriate for the *customer* to secure a previously unsecured loan; and
- (3) where the *customer* is known to have payment difficulties, whether it would be more appropriate for the *customer* to negotiate an

arrangement with his creditors than to enter into an *equity release transaction*.

- 8.5A.12** **E** An attempt by the *firm* to misdescribe the *customer's* purpose or to encourage the *customer* to tailor the amount he wishes to borrow so that ■ **MCOB 8.5A.11 R** does not apply may be relied on as tending to show contravention of ■ **MCOB 2.5A.1 R** (The customer's best interests).

Further advances

- 8.5A.13** **R** Where the *customer* is looking to increase the borrowing secured on the property which is the subject of an existing *regulated mortgage contract*, a *firm* must inform the *customer* (either orally or in writing) that it may be possible, and more appropriate, for the *customer* to take a further advance with the existing lender rather than entering into an *equity release transaction* with another provider.

- 8.5A.14** **G** ■ **MCOB 8.5A.13 R** does not mean that *firms* are under any obligation to explore whether a further advance with the existing lender is, in fact, more appropriate for the *customer*.

Other considerations when advising

- 8.5A.15** **R** When advising a *customer* on the suitability of an *equity release transaction*, a *firm* must explain to the *customer* that the assessment of whether the *equity release transaction* is appropriate to his needs and circumstances is based on the *customer's* current circumstances, which may change in the future.

- 8.5A.16** **G** Different considerations apply when dealing with a *customer* with a *payment shortfall*. For example, the circumstances of the *customer* may mean that, viewed as a new transaction, a *customer* should not be advised to enter into an *equity release transaction*. In such cases, a *firm* may still be able to advise the *customer* to enter into an *equity release transaction* where it is more suitable than the *customer's* existing *home finance transaction*.

- 8.5A.17** **G** ■ **MCOB 8.5A.5R (3)** means that where the *advice* provided is based on a selection of *equity release transactions* from a single or limited number of providers, the assessment of suitability should not be limited to the types of *equity release transactions* which the *firm* offers. A *firm* cannot recommend the 'least worst' *equity release transaction* where the *firm* does not have access to products appropriate to the *customer's* needs and circumstances. This means, for example, that if a *firm* only has access to lump sum *equity release transactions* it should not recommend or arrange one of these if approached by a *customer* requiring regular payments.

- 8.5A.18** **G** ■ **MCOB 8.5A.5R (1)** does not require a *firm* to provide *advice on investments*. Whether such *advice* should be given will depend upon the individual needs and circumstances of the *customer*. ■ **MCOB 8** does not restrict the ability of an adviser to refer the *customer* to another source of *investment advice* (for example, where the adviser is not qualified to provide *advice on investments*).

Record keeping

8.5A.19

R

- (1) A *firm* must make and retain a record:
 - (a) of the *customer* information, including that relating to the *customer's* needs and circumstances and the *customer's* apparent satisfaction of the *equity release provider's* known eligibility criteria, that it has obtained for the purposes of ■ MCOB 8.5A;
 - (b) that explains why the *firm* has concluded that any *advice* given to a *customer* complies with ■ MCOB 8.5A.2 R and satisfies the suitability requirement in ■ MCOB 8.5A.5R (1);
 - (c) of any *advice* which the *customer* has rejected, including the reasons why they were rejected and details of the *equity release transaction* which the *customer* has proceeded with as an *execution-only sale*; and
 - (d) where applicable, of the *customer's* positive choice in ■ MCOB 4.6A.2 R (Rolling up of fees or charges into loan).
- (2) The records in (1) must be retained for a minimum of three years from the date on which the *advice* was given or, in the case of (1)(d), the making of the choice.

8.6A Execution-only sales

Scope and application of this section

8.6A.1

G

- (1) ■ MCOB 8.6A provides that a *firm* may only enter into an *equity release transaction* with a *customer*, or *arrange* such a transaction for a *customer*, as an *execution-only sale* if the *customer* has rejected *advice*, identified the product he wishes to purchase and positively elected to proceed with an *execution-only sale*.
- (2) The aim of ■ MCOB 8.6A is to ensure that, in all sales of *equity release transactions*, there is one *firm* which *advises* the *customer* on the *equity release transaction* and, where applicable, is responsible for ensuring that the conditions for an *execution-only sale* are satisfied. So, as provided in ■ MCOB 8.1.2A R, ■ MCOB 8.6A only applies to *equity release providers* in relation to entering into *equity release transactions* where there is no *firm* which is *arranging* the transaction and to which ■ MCOB 8.6A applies.

The customer's best interests

8.6A.2

G

Firms are reminded that ■ MCOB 2.5A.1 R (The customer's best interests) applies in all cases, including in relation to *execution-only sales*.

8.6A.3

R

A *firm* must not encourage a *customer* to reject *advice* received by him on *equity release transactions*.

The conditions for execution-only sales

8.6A.4

R

A *firm* must not enter into or *arrange* an *execution-only sale* for a *equity release transaction* unless:

- (1) the *customer* has rejected the *advice* given by the *firm* and instead requested an *execution-only sale* of an *equity release transaction*;
- (2) the *customer* has identified which particular *equity release transaction* he wishes to purchase, and specified to the *firm* at least the required additional information (where applicable);
- (3) after providing the required information in (2), the *customer* has been informed, clearly and prominently and in a *durable medium*, and that the *customer* will not benefit from the protection of the rules (in ■ MCOB 8.5A) on assessing suitability.

(a) in any case where the *firm* has advised the *customer* that the *equity release transaction* is unsuitable for the *customer*, that that is the case; and

(b) in any other case, that in the provision of its services for the *execution-only sale* the *firm* is not required to assess the suitability of that *equity release transaction*;

and in either case that the *customer* will not benefit from the protection of the rules (in ■ MCOB 8.5A) on assessing suitability. In any case where there is spoken dialogue between the *firm* and the *customer* at any point, the *firm* must also provide this information orally; and

(4) after the *customer* has been provided with the information in (3), in any case where there is spoken or other interactive dialogue between the *firm* and the *customer* at any point, the *customer* has confirmed in writing to the *firm* that he is aware of the consequences of losing the protections of the rules on assessing suitability and is making a positive election to proceed with an *execution-only sale*. The written confirmation must be in the same document as the information in *durable medium* in (3), which must be separate from any other information and contractual documentation.

Exception: rate switches and other variations to lifetime mortgages

8.6A.5

R

(1) The condition in ■ MCOB 8.6A.4R (1) does not apply in the case of a variation of a *lifetime mortgage*, provided that:

(a) the variation would not involve the *customer* taking on additional borrowing beyond the amount currently outstanding under the existing *lifetime mortgage*, other than to finance any product fee or arrangement fee for the proposed new or varied contract; and

(b) where the variation will (in whole or part) change from one interest rate to another, the *firm* has presented to the *customer*, using a non-interactive channel, all products offered by it for which the *customer* is eligible, whether or not the *customer* then selects from those products using an interactive channel.

(2) The reference to a variation in (1) (and in all other provisions which cross-refer to this *rule*) must be read as including any new *lifetime mortgage* which would replace an existing *lifetime mortgage* between the *customer* (or, where there are joint borrowers, at least one of them) and the *firm* (either as the original *equity release provider* or as the transferee of the existing contract).

8.6A.6

G

(1) The variation in ■ MCOB 8.6A.5 R might involve the addition or removal of a borrower for joint mortgages or a change in payment method. This list is not exhaustive.

(2) Examples of rate changes in ■ MCOB 8.6A.5R (2) are: a transfer from a variable rate to a fixed rate; and a transfer from one fixed rate to another fixed rate.

- (3) *Firms* are reminded that, if their presentation in ■ MCOB 8.6A.5R (1)(b) has (either explicitly or implicitly) steered the *customer* towards any one or more of the products offered by them such as to constitute *advice*, the requirements of ■ MCOB 8.5A will apply.

8.6A.7

R

The required additional information in ■ MCOB 8.6A.4R (2) is:

- (1) for a *lifetime mortgage* other than one falling within ■ MCOB 8.6A.5 R:
- (a) the name of the *mortgage lender*;
 - (b) the rate of interest;
 - (c) the interest rate type;
 - (d) the price or value of the property on which the *lifetime mortgage* would be secured (estimated where necessary); and
 - (e) the sum the *customer* wishes to borrow under it, either immediately or in the future (including the amount of any lump sum, any regular drawdown or flexible facility or any combination of amounts the *customer* wishes to apply for);
- (2) for a *home reversion plan*:
- (a) the name of the *equity release provider*;
 - (b) any initial lump sum required and any lump sum required in the future;
 - (c) the price or value of the property to which the *home reversion plan* would relate (estimated where necessary); and
 - (d) in the case of a *home reversion plan* which is not a full reversion, the amount or percentage of the value of the property that the *customer* wishes to retain.

8.6A.8

G

Where the information in ■ MCOB 8.6A.4R (3) is given by electronic means, the *firm* should ensure that the *customer* cannot progress to the next stage of the sale unless the information has been communicated to the *customer*.

Record keeping

8.6A.9

R

- (1) Whenever a *firm* enters into or *arranges* an *execution-only sale* for an *equity release transaction*, it must make and maintain a record of:
- (a) the required information provided by the *customer* which satisfies ■ MCOB 8.6A.4R (2);
 - (b) the information in *durable medium* in ■ MCOB 8.6A.4R (3);
 - (c) the confirmation by the customer in ■ MCOB 8.6A.4R (4) (where applicable); and
 - (d) any *advice* from the *firm* which the *customer* rejected, including the reasons why it was rejected, before deciding to enter into an *execution-only sale*.
- (2) The record in (1) must be retained for a minimum of three years from the date on which the *equity release transactions* was entered into or *arranged*.

Forbearance

8.6A.10

R

The restrictions in ■ MCOB 8.6A on entering into *execution-only sales* do not apply to any variation which is made solely for the purposes of forbearance where the *customer* has a *payment shortfall*, or in order to avoid a *payment shortfall*.

8.7 Initial disclosure information: unauthorised reversion provider

8.7.1

R

A *firm* must ensure that, on first making contact with a *customer* who is an individual and an *unauthorised reversion provider*, when it anticipates giving personalised information or advice on a *home reversion plan*, it must provide the *customer* with the following warnings in a *durable medium*:

- (1) that a *home reversion plan* is a long-term investment; and
- (2) that a *home reversion plan* is a complex legal arrangement, and that expert independent legal advice should be obtained before entering into any agreement.

Initial disclosure document [deleted]

Combined initial disclosure document [deleted]

[deleted]

Chapter 9

Equity release: product disclosure

9.1

Application

Who?

This chapter applies to a *firm* in a category listed in column (1) of the table in ■ MCOB 9.1.2 R in accordance with column (2) of that table, except that those provisions that by their nature are only relevant to *regulated mortgage contracts* do not apply to *home reversion plans*.

This table belongs to ■ MCOB 9.1.1 R

(1) Category of firm	(2) Applicable section
<i>mortgage lender</i>	MCOB 9.1 - MCOB 9.4.132 R, MCOB 9.5 - MCOB 9.8
<i>mortgage administrator</i>	MCOB 9.1, MCOB 9.2, MCOB 9.6 and MCOB 9.8
<i>mortgage adviser; mortgage arranger</i>	MCOB 9.1 - MCOB 9.4.132 R and MCOB 9.8.5 R - MCOB 9.8.10 R
<i>reversion provider</i>	MCOB 9.1 - MCOB 9.4.17A R, MCOB 9.4.133 R - MCOB 9.6; MCOB 9.9
<i>reversion administrator</i>	MCOB 9.1, MCOB 9.6 and MCOB 9.9
<i>reversion adviser; reversion arranger</i>	MCOB 9.1 - MCOB 9.4.17A R, MCOB 9.4.133 R - MCOB 9.4.176 G; MCOB 9.9.8 R

The *rules* and *guidance* that are not relevant to *home reversion plans* are those related, for example, to interest rates, *APR*, *higher lending charge*, *mortgage credit cards*, multi-part mortgages and foreign currency mortgages.

What?

This chapter applies in the circumstances set out in other *rules* in this sourcebook, but in relation to an *equity release transaction*, in accordance with the table in ■ MCOB 9.1.4 R.

This table belongs to ■ MCOB 9.1.3 R

Section of MCOB 9	Applies in relation to an <i>equity release transaction</i> as set out in the following rules:
MCOB 9.1, MCOB 9.2	all of the <i>rules</i> below in this column

Section of MCOB 9	Applies in relation to an <i>equity release transaction</i> as set out in the following rules:
MCOB 9.3, MCOB 9.4	MCOB 5.1.3 R
MCOB 9.5	MCOB 6.1.3 R
MCOB 9.6	MCOB 7.1.3 R

9.1.5 **R** In this chapter, references to an *equity release transaction* include, where the context requires, references to arrangements which are capable of becoming an *equity release transaction*.

9.1.6 **R** This chapter does not apply in relation to *arranging, advising on or administering a home reversion plan* for a customer acting in his capacity as an *unauthorised reversion provider*.

MCD application

9.1.7 **G**

- (1) This chapter does not apply to an *MCD lifetime mortgage*, except as set out in (2) to (3), below.
- (2) ■ MCOB 9.4.33 R, ■ MCOB 9.4.35 R, ■ MCOB 9.4.62 R and ■ MCOB 9.4.63 R apply to the extent specified by ■ MCOB 5A.6.2 R.
- (3) ■ MCOB 9.6 to ■ MCOB 9.8 apply, except for *rules* that modify or replace MCOB 7.6.7R to MCOB 7.6.17R (because those *rules* do not apply to an *MCD mortgage lender* or an *MCD mortgage credit intermediary*, ■ MCOB 7B applies instead: see MCOB 7.1.2AR and MCOB 7.1.2BG).



9.2 Purpose

9.2.1

G

The purpose of the requirements in this chapter is the same as that in ■ MCOB 5.2, ■ MCOB 6.2 and ■ MCOB 7.2 in respect of *equity release transactions*.



9.3 Pre-application disclosure

9.3.1 R

- (1) ■ MCOB 5.1 to ■ MCOB 5.5 (with the modifications stated in ■ MCOB 9.3.2 R to ■ MCOB 9.3.12 R) apply to a *firm* where the *home finance transaction* is an *equity release transaction*, except that those provisions that by their nature are only relevant to *regulated mortgage contracts* do not apply to *home reversion plans* (see ■ MCOB 9.1.2A G).
- (2) The table in ■ MCOB 9.3.2 R shows how the relevant *rules* and *guidance* in *MCOB 5* must be modified by replacing the cross-references with the relevant cross-references to *rules* and *guidance* applicable to *equity release transactions*.
- (3) The table in ■ MCOB 9.3.3 R replaces certain *rules* and *guidance* in *MCOB 5* with *rules* and *guidance* from ■ MCOB 9.3 and ■ MCOB 9.4.
- (4) The table in ■ MCOB 9.3.4 R disapplies certain *rules* in *MCOB 5* for the purposes of *MCOB 9*.
- (5) The terms that by their nature are relevant only to *regulated mortgage contracts* must be replaced with the appropriate equivalent terms and expressions for *home reversion plans*.

9.3.1A G

The provisions in this sourcebook that apply to *home reversion plans* should be read in a purposive way. This means that *firms* should substitute equivalent home reversion terminology for *lifetime mortgage* terminology, where appropriate. Examples of terms and expressions that must be replaced are 'loan' or 'amount borrowed', which should be replaced with 'amount released' or 'amount to be released', as appropriate, and '*mortgage lender*' and '*mortgage intermediary*' which should be replaced with '*reversion provider*' and '*reversion intermediary*'.

9.3.2 R

Table of modified cross-references to other rules.

This table belongs to ■ MCOB 9.3.1 R.

Subject	Rule or guidance	Reference in rule or guidance	To be read as a reference to:
Variations	MCOB 5.1.3R(2)	MCOB 7	MCOB 7 as modified by MCOB 9
Part of loan not an equity re-	MCOB 5.1.9G	MCOB 5.6.6R(2)	MCOB 9.4.6R(2)

Subject	Rule or guidance	Reference in rule or guidance	To be read as a reference to:
<i>lease transaction</i>			
Waiver of provisions	MCOB 5.1.10G	MCOB 5.6	MCOB 9.4.
Purpose	MCOB 5.2.1G	MCOB 5	MCOB 5 as modified by MCOB 9
Applying for a lifetime mortgage	MCOB 5.3.2G	MCOB 5.6.26R and MCOB 5.6.27R	MCOB 9.4.26R and MCOB 9.4.27R
Messages to be given when providing information on equity release transactions	MCOB 5.4.18AR (1) MCOB 5.4.18AR (1)(a)	MCOB 4.7A.2 R MCOB 4.4A.1R (1), MCOB 4.4A.2 R and MCOB 4.4A.4R (1)	MCOB 8.5A.2 R MCOB 4.4A.1R (1), MCOB 4.4A.2 R and MCOB 4.4A.4R (1), each as applied by MCOB 8.3.1 R in modified form
Messages to be given when customer requests an execution-only sale	MCOB 5.4.18BR (1)	MCOB 4.8A.14R (1) to MCOB 4.8A.14R (3)	MCOB 8.6A.4R (2)
Guidance relevant to messages given to customer	MCOB 5.4.18C G	MCOB 5 Annex 1	MCOB 9 Annex 1 R for a lifetime mortgage; MCOB 9 Annex 2 R for a home reversion plan.
Tied products	MCOB 5.4.24G	MCOB 5.6.74R	MCOB 9.4.73R or MCOB 9.4.160R
Provision of illustrations: timing	MCOB 5.5.1 R (2)(e)	MCOB 4.8A.14R (1), (2) or (3)	MCOB 8.6A.4R (2)
Issue of offer document in place of illustration	MCOB 5.5.3G	MCOB 6.4 and MCOB 6.6	MCOB 6.4 and MCOB 6.6 as modified by MCOB 9
Customer's credit record	MCOB 5.5.16R	MCOB 5.5.15R(4)	MCOB 9.3.12R(3)

9.3.3



Table of rules in MCOB 5 replaced by rules in MCOB 9: This table belongs to MCOB 9.3.1R

Subject	Rule(s) or guidance	Rule(s) or guidance replaced by:
Accuracy of the illustration	MCOB 5.4.2R - MCOB 5.4.7G	MCOB 9.3.5R - MCOB 9.3.10G

Subject	Rule(s) or guidance	Rule(s) or guidance replaced by:
Providing an illustration	MCOB 5.5.15R -	MCOB 9.3.12R -
Content of illustration	MCOB 5.6	MCOB 9.4

9.3.4 **R** Table of rules in *MCOB 5* which do not apply to *MCOB 9*: This table belongs to *MCOB 9.3.1R*.

Subject	Rule(s)
Business loans and loans to high net worth mortgage customers: tailored provisions	MCOB 5.7

9.3.5 **R** An *illustration* on a particular *equity release transaction* issued by, or on behalf of an *equity release provider*, must be an accurate reflection of the costs of the *equity release transaction*.

9.3.6 **R** A *mortgage intermediary* must take reasonable steps to ensure that an *illustration* which it issues, or which is issued on its behalf, other than that provided by a *mortgage lender*:

(1) is accurate within the following tolerances:

- (a) no more than one percent or £1, whichever is the greater, below the actual figures charged by the *mortgage lender* for the following:
 - (i) the *total amount payable* in Section 15 of the *illustration*;
 - (ii) the amounts that the *customer* must pay by regular instalment (where payments are required), or the amounts of interest charged, in Section 8 of the *illustration*; and
 - (iii) the amount by which the regular instalment, or the estimated amount owed, would increase following a one percentage point increase in interest rates in Section 9 of the *illustration*.
- (b) the *APR* in Section 15 of the *illustration* cannot be understated by more than 0.1%; and

(2) except in the case of conveyancing fees and insurance premiums (where estimates may be used), is accurate in respect of other figures quoted in the *illustration* including fees payable to the *mortgage lender* or *mortgage intermediary* in Section 11 and cash examples of *early repayment charges*, calculated in accordance with the rules at ■ MCOB 9.4.83 R to ■ MCOB 9.4.88 R, in Section 13.

9.3.6A **R** A *reversion intermediary* must take reasonable steps to ensure that an *illustration* which it issues, or which is issued on its behalf, other than that provided by an *reversion provider*, is accurate, except in the case of conveyancing fees and insurance premiums (where estimates may be used).

9.3.7 **G** Given that the *APR* is presented as a percentage, and must be rounded to one decimal place in accordance with *MCOB 10* (Annual Percentage Rate),

- firms* should note that the tolerance allowed for the *APR* in ■ MCOB 9.3.6 R(1)(b) means that, for example, where the actual *APR* is 5.0%, the quoted *APR* must be no lower than 4.9%, or where the actual *APR* is 16.0%, the quoted *APR* must be no lower than 15.9%.
- 9.3.8** **G** There are no restrictions on figures which are quoted as higher than those actually charged by the *equity release provider* although this should not be purposely done in order to make one *equity release transaction* look more expensive than another.
- 9.3.9** **G** It is the responsibility of an *equity release intermediary* to ensure an *illustration* is accurate. However, where a *firm* can show that it was reasonable for it to rely on information provided to it by another *person*, other than the *equity release provider*, he may be able to rely on that *person* (see ■ MCOB 2.5.2 R).
- 9.3.10** **G** An *offer document* may not always exactly match the *illustration* provided before application even when the equity release requirements have not changed. For example, where a fixed rate has a defined end date, the *total amount payable* may be different because the number of payments at the fixed rate has reduced, or the estimated amount of interest to be charged has changed, assuming a later date at which the *lifetime mortgage* will start.
- 9.3.11** **R** [deleted]
- 9.3.12** **R** In meeting a request an *illustration* in relation to a particular *equity release transaction* (see ■ MCOB 5.5.1 R (2)(d)), the *firm* must not delay the provision of the *illustration* by requesting information other than:
- (1) the information necessary to personalise the *illustration*, if the *firm* does not already know it;
 - (2) where the *firm* is uncertain whether the transaction will be an *equity release transaction*, such information as is necessary to ascertain this;
 - (3) where the interest rates, payments (if required) or any other terms and conditions to be included in the *illustration* are dependent on the *customer's* credit record, such information as is necessary to produce an *illustration*;
 - (4) where the *firm* includes a quotation for any *tied products* or compulsory insurance in the *illustration*, such information as is necessary to produce those quotations; and
 - (5) where the *customer* agrees to receive a quotation for insurance in the *illustration* (other than that provided for in (4)), such information as is necessary to produce those quotations

9.4 Content of illustrations

Purpose

9.4.1

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This section sets out the required content of an *illustration* for an *equity release transaction* provided to a *customer* by a *firm*. The template of an *illustration* for a *lifetime mortgage* is set out in ■ MCOB 9 Annex 1 and for a *home reversion plan*, in ■ MCOB 9 Annex 2.

Content, order, format etc

9.4.2

R

An *illustration* provided to a *customer* must:

- (1) contain the material set out in the relevant annex to this chapter in the order and using the numbered section headings, sub-headings and text prescribed, except where this section provides otherwise;
- (2) follow the format of the template in the relevant annex to this chapter, with:
 - (a) prominent use of the Key facts logo followed by the text 'about this lifetime mortgage' or 'about this home reversion plan';
 - (b) each section clearly separated;
 - (c) all the amounts set out in Sections 6, 8, 11, 12 and 15 in columns that make the amounts clear; and
 - (d) no section split across different pages except where it is impractical not to do so;
- (3) use font sizes and typefaces consistently throughout the *illustration* which are sufficiently legible so that the *illustration* can be read easily by a typical *customer*;
- (4) ensure that the information within each section is clearly laid out (for example, through the use of bullet points or similar devices to separate information);
- (5) include prominent headings with the numbered section headings clearly differentiated in some way from the other text in the *illustration* (for example, through the use of larger and more prominent fonts, the use of shading or colour);
- (6) replace "[name of *mortgage lender*]" or "[name of *reversion provider*]" with the name of the *equity release provider*; a trading name used by the *equity release provider* may be stated;

9.4.3

G

- (7) describe any *early repayment charge* as an "early repayment charge" and not use any other expression to describe such charges;
- (8) describe any *higher lending charge* as a "higher lending charge" and not use any other expression to describe such charges; and
- (9) describe any *lifetime mortgage* as a "lifetime mortgage" and any *home reversion plan* as a "home reversion plan" and not use any other expression to describe such a mortgage or plan or omit that description from the name given to any product that meets the definition.

- (1) Further requirements regarding the use of the Key facts logo and the location of specimens are set out in ■ GEN 5.1 and ■ GEN 5 Annex 1 G.
- (2) ■ MCOB 9.4.2 R(3) does not prevent the use of different fonts and typefaces for headings and risk warnings. Its purpose is to prevent particular sections of the *illustration* from being made less prominent than other sections through the inconsistent use of font sizes and typefaces.
- (3) The *illustration* can contain the *equity release provider's* or *equity release intermediary's* logo and other "brand" information.
- (4) The *illustration* can contain page numbers and other references that aid understanding, record keeping and identification of a particular *illustration* such as the date and time an *illustration* is produced or a unique reference number, provided these do not detract from the content of the *illustration*.
- (5) *Firms* are reminded of their general obligation for communications to *customers* to be clear, fair and not misleading. Sections of the *illustration* may be split across pages where it is practical to do so. When splitting sections, *firms* should split the section at an appropriate place, for example at the end of a sub-section, and not split risk warnings or tables (unless the length of the table is greater than one page).

9.4.4

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A *firm* must include in the *illustration* all prescribed section headings, except that:

- (1) in Section 8 of the *lifetime mortgage illustration* (What you owe and when):
 - (a) Section 8 (A) (details of mortgage payments) is only required where the terms of the *lifetime mortgage* either:
 - (i) require the *customer* to make regular payments to the *mortgage lender*, in respect of all or part of the interest or part of the capital due under those terms, either over the duration of the *lifetime mortgage* or until a specified date; or
 - (ii) expect that the *customer* will make such payments until he or she chooses to stop doing so.
 - (b) Section 8(B) (projection of roll-up of interest) is only required where all or part of the interest on the *lifetime mortgage* is or may be rolled-up;
- (2) Section 16 of the *lifetime mortgage illustration* (Using a mortgage intermediary) or section 12 of the *home reversion plan illustration* (Using a home reversion intermediary) is required only where the

illustration is provided to the *customer* by, or on behalf of, an *equity release intermediary*; and

- (3) where the *illustration* is issued in connection with a further advance, an additional section "Total borrowing" must be inserted after Section 8 of a *lifetime mortgage illustration*, and must be numbered "9", with all subsequent sections renumbered accordingly.

Content: required information

9.4.5

R

The *illustration* provided to a *customer* must:

- (1) contain only the material specified in ■ MCOB 9.4 and no other material except where provided for elsewhere in ■ MCOB 9.4; and
- (2) be in a document separate from any other material that is provided to the *customer*.

9.4.6

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As a minimum the *illustration* must be personalised to reflect the following:

- (1) the specific *equity release transaction* in which the *customer* is interested;
- (2) the amount of the loan or equity required by the *customer*, or for *drawdown mortgages* and *instalment reversion plans*, the amount the *customer* wishes to draw down or to receive on a monthly (or such frequency that amounts are available) basis. Where the amount the *customer* can draw down is variable, the *firm* must agree with the *customer* an expected amount to be drawn down per year (see ■ MCOB 9.4.13 R);
- (3) the price or value of the property on which the equity release amount is based (estimated where necessary);
- (4) such information relating to the *customer*, or the property, or both as is necessary to determine that the *customer* would qualify for the *equity release transaction* in question; and
- (5) the term of the *instalment reversion plan* or, in the case of a *lifetime mortgage* and an open-ended *instalment reversion plan*, the estimated term.

9.4.7

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A *firm* should not illustrate more than one *equity release transaction* in the same *illustration*, for example by using one *illustration* to compare alternative products.

9.4.8

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These are minimum requirements. The *illustration* may be personalised to a greater degree if the *equity release provider* or *equity release intermediary* wishes, subject to the restrictions on the information that can be obtained from the *customer* when he requests written information on a particular transaction (see ■ MCOB 5.5.1 R (2)(c)).

- 9.4.9** **G** In relation to the price or value of the property, in order for the *firm* to comply with the principle that an *illustration* should be clear, fair and not misleading, an estimated valuation, where the estimated valuation is not that provided by the *customer*, must be a reasonable assessment based on all the facts available at the time. For example, an overstated valuation could enable a more attractive *lifetime mortgage* to be illustrated on the basis of a lower ratio of the loan amount to the property value - for example, one with a lower rate of interest.
- 9.4.10** **R** (1) In estimating the term of a *lifetime mortgage* or an open-ended *instalment reversion plan*, a *firm* must:
- (a) use an estimate of the life expectancy of the *customer* that is reasonable and based on evidence; and
 - (b) for the purposes of the *illustration*, where the estimate of life expectancy is not a whole number of years, the term should be rounded up to the next whole year (for example, if the life expectancy is between fifteen and sixteen years, an estimated term of sixteen years should be used in the *illustration*).
- (2) Where the term estimated using the approach set out in (1) is less than fifteen years, the *firm* should use a term of fifteen years in preparing the *illustration*.
- 9.4.10A** **E** Use of the most recent appropriate mortality tables in the Continuous Mortality Investigation published by the Institute and Faculty of Actuaries or in the National Life Tables published by the Office of National Statistics may be relied on as tending to establish compliance with ■ MCOB 9.4.10R(1)(a).
- 9.4.11** **R** Where the *illustration* is issued to two or more *customers* who intend to borrow jointly, or who own the property jointly, the term estimated should be based on the longest life expectancy.
- 9.4.12** **R** If the *customer* requests an *illustration* showing a term of the *customer's* choice, that *illustration* must be issued in addition to the *illustration* showing the term calculated in accordance with these *rules*. The term chosen should be stated in Section 4 of the *illustration* "What you have told us".
- 9.4.13** **R** The amount to be specified in the *illustration* and referred to in ■ MCOB 9.4.6 R(2) is:
- (1) the amount that the *customer* has asked to borrow, release or draw down; or
 - (2) where the *lifetime mortgage* is a revolving credit agreement such as a secured overdraft or *mortgage credit card*:
 - (a) (if it provides for an initial drawdown and *linked borrowing* facilities that would allow the *customer* to increase the amount of the loan without any further approval from the *mortgage lender*) the amount of the initial drawdown; or
 - (b) (in all other cases) the total borrowing that the *firm* is willing to provide under the *lifetime mortgage*; or
 - (3) in cases where, on the basis of the information obtained from the *customer* before providing the *illustration*, it is clear that the *customer* would not be eligible to borrow, release or draw down the

		amount he requested, an estimate of the amount that the <i>customer</i> could borrow, release or draw down, based on the information obtained from the <i>customer</i> .
9.4.14	G	■ MCOB 9.4.13 R(3) does not require information to be obtained from the <i>customer</i> before providing an <i>illustration</i> in order to ascertain the amount the <i>customer</i> is eligible to borrow or to release from the property. Instead, its purpose is to avoid a <i>firm</i> being in a position where it would otherwise have to provide a <i>customer</i> with an <i>illustration</i> for an amount it knew the <i>customer</i> would not be eligible for, based on whatever information it had obtained from the <i>customer</i> before providing the <i>illustration</i> .
9.4.15	R	Where the <i>illustration</i> relates to a <i>lifetime mortgage</i> that is sub-divided into different parts with different types of interest rate or different rates of interest or different conditions, or a combination of these, the requirements in ■ MCOB 9.4 may be adapted to accommodate this. The adaptations made must be limited to those that are necessary.
9.4.16	G	■ MCOB 9.4.15 R applies where, for example, the <i>lifetime mortgage</i> is divided so that a certain amount is payable on a fixed interest rate, and a certain amount on a discounted interest rate.
		Information to be included at the head of the illustration
9.4.17	R	The following information must be included at the head of the <i>illustration</i> : <ul style="list-style-type: none"> (1) the <i>customer's</i> name; (2) the date of issue of the <i>illustration</i>; (3) details of how long the <i>illustration</i> is valid for, and whether there is any date by which the <i>equity release transaction</i> covered by the <i>illustration</i> needs to commence (for example, where a fixed interest rate is only available if the <i>lifetime mortgage</i> commences before a certain date); and (4) the prescribed text at the head of the <i>illustration</i>.
9.4.17A	R	<ul style="list-style-type: none"> (1) The requirements for a <i>lifetime mortgage illustration</i> are set out in ■ MCOB 9.4.18 R to ■ MCOB 9.4.132 R. (2) The requirements for a <i>home reversion plan illustration</i> are set out in ■ MCOB 9.4.133 R to ■ MCOB 9.4.176 G.
		Section 1 of a lifetime mortgage illustration: "About this information"
9.4.18	R	Under the section heading "About this information", the prescribed text in ■ MCOB 9 Annex 1 under this heading must be included.

		Section 2 of a lifetime mortgage illustration: "Which service are we providing you with?"
9.4.19	R	<p>(1) Unless (2) applies, under the section heading "Which service are we providing you with?" the prescribed text in ■ MCOB 9 Annex 1 under this heading must be included with a "check box" for each statement, one of which must be marked prominently to indicate the level of service provided to the <i>customer</i>:</p> <p>(2) If the level of service described in the <i>illustration</i> is provided by another <i>firm</i>, (1) may be replaced by the following: Under the section heading "Which service are we providing you with?" the following text should be presented as two options with a "check box" for each option, one of which must be marked prominently to indicate the level of service provided to the <i>customer</i>: "[name of <i>firm</i>] recommends, having assessed your needs, that you take out this lifetime mortgage. [name of <i>firm</i>] is not recommending a particular lifetime mortgage for you. However, based on your answers to some questions, it is giving you information about this lifetime mortgage so that you can make your own choice, or find out about other ways in which you may be able to release equity from your home."</p>
		Section 3 of a lifetime mortgage illustration: "What is a lifetime mortgage?"
9.4.20	R	Under the section heading "What is a lifetime mortgage?", the prescribed text in ■ MCOB 9 Annex 1 under this heading must be included.
		Section 4 of a lifetime mortgage illustration: "What you have told us"
9.4.21	R	<p>(1) Under the section heading "What you have told us", the <i>illustration</i> must state the information that has been obtained from the <i>customer</i> under ■ MCOB 9.4.6 R and ■ MCOB 9.3.12 R (apart from ■ MCOB 9.4.6 R(1) and ■ MCOB 9.4.6 R(5) which are provided for in Section 5 of the <i>illustration</i>), and can include brief details of any other information that has been obtained from the <i>customer</i> and used to produce the <i>illustration</i>.</p> <p>(2) Where the <i>customer</i> requests an additional <i>illustration</i> showing a term of their choice, the term chosen by the <i>customer</i> must be stated in this section, together with a statement to the effect that the term is the <i>customer's</i> choice.</p> <p>(3) If the amount on which the <i>illustration</i> is based includes the amount that the <i>customer</i> wants to borrow or draw down plus charges and other payments that have been added to the loan or amount to be drawn down:</p> <p>(a) except where (b) applies, this section must include the following text after the loan amount or amount to be drawn down from ■ MCOB 9.4.13 R(1): "plus £ [insert total amount of fees and other charges added to the loan] for fees that have been added to the loan [or amount drawn down] - see Section 11 for details."; or</p> <p>(b) where there are other fees or charges that the <i>customer</i> must pay that have not been added to the loan this section must include the following text after the loan amount or amount to be drawn</p>

down from ■ **MCOB 9.4.13 R(1)**: "plus £ [insert total amount of fees and other charges added to the loan] for fees that have been added to the loan [or amount drawn down]. These and the additional fees that you need to pay are shown in Section 11."

- (4) If the amount on which the *illustration* is based includes the amount that the *customer* wants to borrow plus insurance premiums or insurance-related charges (other than a *higher lending charge*) that have been added to the loan or amount to be drawn down:
 - (a) except where (b) applies, this section must include the following text after the loan amount or amount to be drawn down from ■ **MCOB 9.4.13 R(1)** (which may be combined with the prescribed text in (3) if applicable): "plus £[insert amount of premium or charges, or both, to be added to the loan] for insurance [premiums] [and] [charges] that have been added to the loan [or amount drawn down] " see Section 12 for details."; or
 - (b) where there are other insurance premiums or insurance-related charges, or both, that the *customer* must pay that have not been added to the loan this section must include the following text after the loan amount or amount to be drawn down from ■ **MCOB 9.4.13 R(1)** (which may be combined with the prescribed text in (3) if applicable): "plus £ [insert amount of premium or charges, or both, to be added to the loan] for insurance [premiums] [and] [charges] that have been added to the loan [or amount drawn down]. These and any additional insurance [premiums] [and] [charges] that you need to pay are shown in Section 12."
- (5) If the amount on which the *illustration* is based does not involve any charges or payments being added to the amount to be borrowed or amount to be drawn down, but there are charges that must be paid by the *customer*, Section 4 of the *illustration* must include the following text after the loan amount from ■ **MCOB 9.4.13 R(1)**: "No fees have been added to this amount but the fees you need to pay are shown in Section 11. For details of any insurance charges, see Section 12."
- (6) If the *lifetime mortgage* on which the *illustration* is based has no charges that must be paid by the *customer*, and no insurance premiums are being added to the loan, Section 4 of the *illustration* must include the following text after the loan amount from ■ **MCOB 9.4.13 R(1)**: "We do not charge any fees for this lifetime mortgage."

9.4.22 **R** At the end of Section 4 of the *illustration* a statement must be included making clear that changes to any of the information obtained from the *customer*, and where appropriate to the valuation of the property, could alter the details elsewhere in the *illustration* and encouraging the *customer* to ask for a revised *illustration* in this event.

9.4.23 **G** An example of the type of statement that would satisfy ■ **MCOB 9.4.22 R** is: "The valuation that will be carried out on the property, and changes to any of the information you have given us, could alter the information in this illustration. If this is the case please ask for a revised illustration."

Section 5 of a lifetime mortgage illustration: "Description of this mortgage"

9.4.24

R

Under the section heading "Description of this mortgage" the *illustration* must:

- (1) state the name of the *mortgage lender* providing the *lifetime mortgage* to which the *illustration* relates (a trading name used by the *mortgage lender* may also be stated in accordance with ■ MCOB 9.4.2 R(6)), and the name, if any, used to market the *lifetime mortgage*;
- (2) include a statement describing the *lifetime mortgage*;
- (3) if the *lifetime mortgage* is linked to an *investment*, and payments required on the *lifetime mortgage* will be deducted from the income from the *investment*, include a statement that this is the case;
- (4)
 - (a) provide a description of the interest rate type and rate of interest that applies in accordance with the format described in ■ MCOB 9.4.26 R and ■ MCOB 9.4.27 R;
 - (b) where there is more than one interest rate type or rate of interest, specify the amount of the loan to which each interest rate type and rate of interest applies;
 - (c) unless the interest rate applies for the full life of the loan, confirm what interest rate will apply, when it will apply and for how long it will apply after any initial interest rate ends, in accordance with the format described in ■ MCOB 9.4.26 R and ■ MCOB 9.4.27 R; and
 - (d) provide a clear explanation of the charging approach where different interest rates are applied to different items of debt (for example, for a *mortgage credit card* where a different interest rate applies to balances that are transferred from that charged on any additional borrowing);
- (5) include a statement regarding the term of the *lifetime mortgage* using the following text: "We have based this illustration on an estimated term of [insert number of years] years, but remember that the term of this lifetime mortgage is not fixed and could be longer or shorter than [insert number of years] years. If you are still living in your home at the end of [insert number of years] years, the lifetime mortgage will continue to run.";
- (6) include a statement of the maximum amount the *customer* may borrow from the *mortgage lender* and the circumstances (if any) in which the *customer* may be able to borrow additional funds at a future date;
- (7) if the *customer* is obliged to buy any *tied products* under the *lifetime mortgage* include the following information:
 - (a) details of the *tied products* required;
 - (b) the following text: "You are obliged to take out [insert details of the *tied product(s)*] through [insert name of *mortgage lender* or if relevant, name of *mortgage intermediary*] as a condition of this

lifetime mortgage. Please refer to Section 12 of this illustration for further details.";

- (8) state very briefly any restrictions that apply to the availability of the *lifetime mortgage* (for example, if it is only available to certain types of *customer*);
- (9) where the interest rate, payments (if required) or terms and conditions of the *lifetime mortgage* in the *illustration* reflect a *customer's* adverse credit history, include the following text: "The terms of this lifetime mortgage reflect past or present financial difficulties."; and
- (10) where the intention of the *lifetime mortgage* is solely to provide the *customer* with a *mortgage credit card* (rather than the *mortgage credit card* being an additional feature of a *lifetime mortgage*) include the warning about the loss of statutory rights from ■ MCOB 9.4.102 R(2)(a) or (b) in Section 5 of the *illustration* rather than Section 14.

9.4.25

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Examples of types of statement that would satisfy ■ MCOB 9.4.24 R(2) are as follows (more than one may apply to particular types of *lifetime mortgage*):

- (1) For an *interest roll-up mortgage*: "You do not have to make any repayments during the life of this lifetime mortgage. The loan, all of the interest and charges due to [name of *mortgage lender*] will be repaid from the sale of your home. This will happen on your death [or the death of the last borrower] or if you move home (either into another property or into sheltered accommodation or residential care). Any money left over would be paid to you or your beneficiaries." [If only a part of the interest is rolled up the statement should specify the amount or proportion of the loan on which the interest will be rolled-up].
- (2) For a *drawdown mortgage*: "This lifetime mortgage provides you with a cash sum every month [or such other frequency as is applicable, including "on request"] until it is repaid. [Include if applicable: You will also receive a lump sum payment at the start of the lifetime mortgage].".
- (3) For an *interest-only mortgage*: "This is an interest only lifetime mortgage, which means that you have to make [insert frequency of payments] payments to [name of *mortgage lender*] until the lifetime mortgage is repaid. The amount you owe will stay the same over the life of the mortgage unless fees or charges have to be added. The mortgage will be repaid from the sale of your home on your death [or the death of the last borrower] or if you move home (either into another property or into sheltered accommodation or residential care). Any money left over would be paid to you or your beneficiaries.".

9.4.26

R

■ MCOB 9.4.27 R sets out some examples of descriptions of interest rate types and rates of interest that must be used in the *illustration* to comply with ■ MCOB 9.4.24 R(4). If an interest rate is not described in ■ MCOB 9.4.27 R, it must be presented in the *illustration* in a way that is consistent with the descriptions in ■ MCOB 9.4.27 R.

9.4.27

R

Description of interest rate types and rates of interest. This table belongs to MCOB 9.4.26R:

Description of the interest rate	Amount payable in each instalment (if applicable)
Lender's base mortgage rate - must be described as the [Lender]'s standard variable rate, currently X%, [where applicable insert the date at which the interest rate ends or period for which the interest rate applies].	Amount based on X%.
Fixed rate - must be described as fixed rate of X% [where applicable insert the date at which the interest rate ends or the period for which the interest rate applies].	Amount based on the fixed rate of X%.
Discounted rate - must be described as a variable rate, currently X%, with a discount of Y% [where applicable insert the date at which the discount ends or the period for which the discount applies], giving a current rate payable of Z%.	Amount based on Z%.
Capped rate - must be described as a variable rate, currently X%, which will not go above a ceiling of Y% [where applicable insert the date at which the capped interest rate ends or the period for which the capped interest rate applies].	Amount based on the current interest rate payable (X%).
Capped and collared - must be described as a variable rate, currently X%, which will not go below a floor of Y% or above a ceiling of Z% [where applicable insert the date at which the capped and collared interest rate ends or the period for which the capped and collared interest rate applies].	Amount based on the current interest rate payable (X%).
Tracker rate - must be described as a variable rate which is [X% above/X% below/the same as] [insert interest rate tracked, currently Z%], [where applicable insert the date at which the interest rate ends or the period for which the interest rate applies], to give a current rate payable of Y%. Details should also be provided of how soon after an interest rate change the mortgage interest rate is adjusted.	Amount based on Y%.
Deferred rate - must be described as a variable rate, currently X%, where Y% is not paid now but is added to your mortgage [where applicable insert the date at which the deferred interest rate ends or the period for which the deferred interest rate applies], to give a current rate payable of Z%.	Amount based on Z%.
Stepped rate where different interest rates apply over different time periods (for example, fixed interest rate in year 1 changes in year 2). Each element should be dealt with individually as above.	Amount for each of the 'steps'.
Combinations of the above must be treated in the same way as the descriptions above, (for example, if a discounted interest rate has a 'floor' then it must be described as such).	Follow the above treatment depending on the combination.

- 9.4.28** **R** Where the loan under the *lifetime mortgage* is divided into more than one part (for example where part of the loan is a fixed interest rate and part of the loan is a discounted variable interest rate) and the *firm* displays this in a tabular format in the *illustration*:
- (1) the following text must be used to introduce the table "As this lifetime mortgage is made up of more than one part, these parts are summarised below:";
 - (2) each part must be numbered for ease of reference in the *illustration*;
 - (3) the "initial rate payable" must be displayed separately from the interest rate description;
 - (4) the loan amounts must be totalled; and
 - (5) immediately following the table, a statement of what interest rates will apply to each part, (and when they will apply) after any initial interest rate ends in accordance with ■ **MCOB 9.4.24 R(4)(c)**.

- 9.4.29** **R** Further information about the *lifetime mortgage* may be included in Section 5 of the *illustration* as long as it does not significantly:
- (1) duplicate information contained elsewhere in the *illustration*; and
 - (2) extend the length of this section.

- 9.4.30** **G** An example of further information that may be included in accordance with ■ **MCOB 9.4.29R** might be that an "approval in principle" has been granted subject to valuation and satisfactory credit reference.

Section 6 of a lifetime mortgage illustration: "Benefits"

- 9.4.31** **R** Under the section heading "Benefits", the *illustration* must include:
- (1) a description of the monetary amount(s), and in a box aligned to the right of the document, the monetary amount(s) that the *customer* will receive as a lump sum and/or as a monthly [or such other frequency as is applicable] payment;
 - (2) where the *lifetime mortgage* is linked to an *investment* and the payments required on the *lifetime mortgage* will be deducted from the income from the *investment*, the monetary amount of the net income the *customer* will receive. This must be shown in a box immediately underneath that required in (1) and containing the subheading "Your net income"; and
 - (3) if applicable, statements of any other benefits, incentives and guarantees that apply to the *lifetime mortgage*. This must be shown under the subheading "Other benefits and incentives".

- 9.4.32** **G** Examples of text that would satisfy ■ **MCOB 9.4.31 R(1)**, depending on the nature of the *lifetime mortgage*, are:

- (1) "This lifetime mortgage will provide a lump sum of £[x].";
- (2) "The amount you are borrowing will automatically be used to purchase a [name of linked *investment* product] from [name of provider]. The amount is £[x]."; and
- (3) "You will receive a monthly [or such other frequency as is applicable] payment from the start of your lifetime mortgage. This will be £ [state amount].".

Section 7 of a lifetime mortgage illustration: "Risks - important things you must consider"

9.4.33

R

The *illustration* must include under the heading "Risks - important things you must consider" statements and warnings on the following:

- (1) a brief statement of the specific circumstances in which the *mortgage lender* is able to *repossess* the property;
- (2) a statement of how the *mortgage lender* will treat any negative equity arising during the life of the *lifetime mortgage* and at the time the amount borrowed under the *lifetime mortgage* is due to be repaid in full;
- (3) a statement of the effect of the *customer* wanting or needing to move home (either into another property or into sheltered accommodation or long term care or residential care), covering the circumstances in which the *lifetime mortgage* is portable, and whether *early repayment charges* are payable (the *illustration* is not required to include under this heading the exact amount of any *early repayment charges*);
- (4) a statement of the effect on the *lifetime mortgage* of another party moving into the property (for example on marriage or the formation of a civil partnership or where a family member acts as a carer);
- (5) a brief statement of the *mortgage lender's* requirements for repair and maintenance of the property, including the *mortgage lender's* right (if any) to enter the property to effect essential repairs, and the circumstances in which this may occur;
- (6) a warning that taking out this *lifetime mortgage* may affect the *customer's* tax and welfare benefits position, that tax and welfare benefits can change and that the *customer* should consider seeking further information from HM Revenue and Customs, Benefits Agency or another source of advice such as a Citizens' Advice Bureau;
- (7) a brief statement as to whether the *customer* can secure borrowing from any other source on the property in the future (and if applicable a warning that an increasing debt may mean that it may not be possible to borrow more in the future); and
- (8) a statement included prominently at the end of Section 7: "Risks - important things you must consider" using the following specified text: "Check that this mortgage will meet your needs if you want your family or others to inherit your home. If you are in doubt, seek independent legal and financial advice".

9.4.34

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9.4.35

R

Under the heading "Risks - important things you must consider" the *illustration* must also include the following if they apply:

- (1) for *drawdown mortgages* where there is a monthly (or such other frequency as may apply) cash sum payable, a statement that inflation can erode the value of the cash sum over time;
- (2) where:
 - (a) the *lifetime mortgage* is linked to an *investment*; and
 - (b) the payments required on the *lifetime mortgage* will be deducted from the income from the *investment*; and
 - (c) the *customer* will receive a fixed net income;
 a statement that inflation can erode the value of the cash sum over time;
- (3) for *drawdown mortgages*, details of any circumstances where the *mortgage lender* may alter or discontinue payments to the *customer* without their prior consent; and
- (4) for all *lifetime mortgage*, a statement or warning with regard to any material issue not covered elsewhere in ■ MCOB 9.4.33 R and ■ MCOB 9.4.35 R.

Section 8 of a lifetime mortgage illustration: "What you will owe and when" (A) "Details of mortgage payments"

9.4.36

G

The section headed "What you will owe and when" (A) "Details of mortgage payments" will apply only where the terms of the *lifetime mortgage* either:

- (1) require the *customer* to make regular payments to the *mortgage lender*, in respect of all or part of the interest or part of the capital due under those terms, either over the duration of the *lifetime mortgage* or until a specified date; or
- (2) expect that the *customer* will make such payments until he or she chooses to stop doing so.

This will include those cases where the interest payment is deducted from the income provided by a linked *investment* product (such as an annuity) such that the *customer* receives the net income.

9.4.37

R

The heading of the column on the right-hand side of Section 8 of the *illustration* must state the frequency with which payments must be made by the *customer*. (For example, if payments are to be made on a monthly basis, the heading for this section must be "What you will owe and when" and the column must be headed "Monthly payments".

9.4.38

R

All the payments in Section 8 of the *illustration* must be calculated based on the frequency used for the purposes of the heading in ■ MCOB 9.4.37 R and must be shown in the column on the right-hand side of this section.

- 9.4.39** **R** Section 8 of the *illustration* must contain the following information:
- (1) the loan amount on which the *illustration* is based. This figure should include all fees, charges and insurance premiums that have been added to the loan in accordance with **■ MCOB 9.4.21 R(3)** and **■ MCOB 9.4.21 R(4)**, and the following text must follow the loan amount: "which include[s] the [fees] [and] [insurance premiums] that are shown in [Section 11] [and] [Section 12] as being added to your lifetime mortgage.";
 - (2) the assumed start date that has been used in the *illustration* to estimate the number of payments to be charged at given interest rates;
 - (3) except where **■ MCOB 9.4.47 R** applies, for each of the interest rates charged on the *lifetime mortgage*:
 - (a) the number of payments at that interest rate;
 - (b) whether the interest rate is fixed or variable;
 - (c) the interest rate charged on the *lifetime mortgage* at the time the *illustration* is issued; and
 - (d) the amount that the *customer* must pay in each instalment at that interest rate, which must be recorded in the right-hand column of this section (see **■ MCOB 9.4.38 R**); and
 - (4) where the payment due to the *mortgage lender* is to be deducted from the income provided by a linked *investment* product (such as an annuity) such that the *customer* receives the net income, a clear statement to this effect.
- 9.4.40** **G** If appropriate, the two statements required by **■ MCOB 9.4.39 R(1)** and **■ MCOB 9.4.39 R(2)** may be merged, for example "These payments are based on a loan amount of £x and assume that the lifetime mortgage will start on [dd/mm/yy].".
- 9.4.41** **G** **■ MCOB 9.4.39 R(3)** applies to each interest rate charged on the *lifetime mortgage* covered by the *illustration*. This means that it applies to different interest rates charged at different times, for example, where the interest rate changes at the end of any initial discounted, fixed or other special interest rate period.
- 9.4.42** **G** The *firm* may determine the assumed start date in **■ MCOB 9.4.39 R(2)**.
- 9.4.43** **R** The following information must be included in the description of the interest rate required by **■ MCOB 9.4.39 R(3)(c)** except where **■ MCOB 9.4.47 R** applies:
- (1) where the interest rate can change, the word "currently" must be used to illustrate the current interest rate payable; and
 - (2) where the interest rate changes after a given period the words "followed by" should be used to indicate this.

9.4.44 **G** An example of how the information required by ■ MCOB 9.4.39 R(3) and ■ MCOB 9.4.43 R may be presented when there is an example term of fifteen years, and an initial fixed interest rate for a period of 22 months followed by the *mortgage lender's* standard variable interest rate for a period of 158 months, is as follows: "22 payments at a fixed rate of [...] % followed by 158 payments at a variable rate, currently [...] %".

9.4.45 **R** The information required by ■ MCOB 9.4.39 R(3)(d) must exclude the cost of any products which may be sold in conjunction with the *lifetime mortgage* (whether *tied products* or not) unless the cost has been added to the *lifetime mortgage*

9.4.46 **R** If, because of the assumed start date of the *lifetime mortgage*, the initial payment differs from the subsequent payments, the initial payment must be shown in this section in accordance with ■ MCOB 9.4.39 R(3)(d).

Multi-part mortgages

9.4.47 **R** Where the loan under the *lifetime mortgage* is divided into more than one part (for example, where part of the loan is on a fixed interest rate and part on a discounted variable interest rate) and the *firm* displays the initial cost of all parts, and the total cost, in a tabular format in the *illustration*, ■ MCOB 9.4.39 R(3) and ■ MCOB 9.4.43 R do not apply; instead:

- (1) each part must be numbered for ease of reference in the *illustration*;
- (2) the loan amounts must be totalled;
- (3) the number and frequency of each payment must be stated;
- (4) the "initial interest rate payable" for each part must be displayed;
- (5) whether the interest rate payable is fixed or variable for each part must be stated; and
- (6) the regular payment for each part must be stated and the total payment for all parts highlighted (excluding the information listed in ■ MCOB 9.4.45 R).

9.4.48 **R** Unless all of the interest rates described in ■ MCOB 9.4.47 R(4) apply for the life of the loan part to which they apply, then an additional sub section titled "What you will owe in future" must be included to indicate the future stepped payments. This section must:

- (1) state when a change in payment will occur;
- (2) state the reason for the change in payment; and
- (3) confirm that the payment illustrated assumes that interest rates will not change.

Section 8 of a lifetime mortgage illustration: "What you will owe and when" (B) "Projection of roll-up of interest"

- 9.4.49** **G** Section 8 headed "What you will owe and when" (B) "Projection of roll-up of interest" applies only where all or part of the interest due over the life of the *lifetime mortgage* is or may be added to the loan and paid to the *mortgage lender* on repayment of the loan. The projection should be based on the term of the *lifetime mortgage* estimated in accordance with ■ MCOB 9.4.10 R (and if required, ■ MCOB 9.4.12 R).
- 9.4.50** **R** An explanation of the table required in accordance with ■ MCOB 9.4.51 R must be shown in a box immediately under the heading using the following text: "This shows how the amount(s) paid to you and the interest and any fees that we charge mount up over [insert number of years estimated in accordance with ■ MCOB 9.4.10 R or ■ MCOB 9.4.12 R] years. It has been calculated using the current interest rate(s) of [insert interest rate(s)]. Interest is added to the amount you owe [insert frequency of roll-up of interest - e.g. monthly]. Remember that the mortgage could run for a longer or shorter time than [insert number of years estimated in accordance with ■ MCOB 9.4.10 R or ■ MCOB 9.4.12 R] years, and if it runs for longer, the amount you owe will carry on increasing.".
- 9.4.51** **R** The table showing the projection in the section headed "Projection of roll-up of interest" should show annual details in columns under the following headings:
- (1) "Year": this should list the years as 1,2,3... etc. The start date for year one must be an assumed date of completion of the *lifetime mortgage*. The table must show each year of the term estimated in accordance with ■ MCOB 9.4.10 R (or if required, ■ MCOB 9.4.12 R).
 - (2) "Balance at start of year": this must show the estimated amount outstanding on the *lifetime mortgage* at the beginning of each year. For year one this balance would include any lump sum advanced on completion.
 - (3) (where the *lifetime mortgage* is a *drawdown mortgage*) "Amount paid to you during the year": this must include all amounts to be drawn down during the year in question. Where the amount the *customer* can draw down is variable, the *mortgage lender* must agree with the *customer* an expected amount to be drawn down per year.
 - (4) "Interest charged at [insert percentage(s)]": this must be the interest charge for the year in question, calculated on the balance at the start of the year plus the amount drawn down (if applicable) and any fees added to the loan during the year. The percentage(s) used must be as follows:
 - (a) for a fixed interest rate that applies throughout the term, the fixed interest rate available at the date the *illustration* is issued;
 - (b) for a variable interest rate, the interest rate that is available at the time the *illustration* is issued; and
 - (c) for a capped interest rate, the actual interest rate that is available at the time the *illustration* is issued, where this is lower than the interest rate at which the cap is set.

Where more than one interest rate applies (e.g. fixed for part of the term, followed by variable), the *mortgage lender* must use the rates that are available at the time the *illustration* is issued.

- (5) "Fees charged during the year": this must include all fees that can be added to the loan during the life of the *lifetime mortgage*. In year one this will include any fees due to the *mortgage lender* unless the *customer* has confirmed that he wishes to pay them separately. The fees for the final year shown must include any fees required on repayment in full of the *lifetime mortgage*.
- (6) "What you owe at the end of the year": this is the total of:
 - (a) the balance at start of the year;
 - (b) total drawn down (if applicable);
 - (c) interest charged for the year; and
 - (d) fees for the year.

The balance at the end of the final year of the term (estimated in accordance with ■ MCOB 9.4.10 R (or if required, ■ MCOB 9.4.12 R)) must therefore be the estimated amount required to repay in full the *lifetime mortgage* at the end of that year.

9.4.52

G

The firm may determine the assumed date of completion in ■ MCOB 9.4.51 R(1).

Section 9 of a lifetime mortgage illustration: "Will the interest rate change?"

9.4.53

R

Where the *customer* is required to make payments to the *mortgage lender* on the *lifetime mortgage*, the *illustration* must include the following under the section heading "Will the interest rate change?":

- (1) if the interest rate is fixed throughout the life of the *lifetime mortgage*, an explanation that the payments will not vary because the interest rate is fixed;
- (2) if the interest rate is fixed for part of the life of the *lifetime mortgage*, an explanation of when or how increases in the interest rate charged on the *lifetime mortgage* affect the *customer's* payments;
- (3) if the interest rate cannot go above a certain level or below a certain level, or both, and this applies throughout the life of the *lifetime mortgage*, an explanation that this is the case;
- (4) if the interest rate cannot go above a certain level for part of the life of the *lifetime mortgage*, an explanation that this is the case and of when or how increases in the interest rate charged on the *lifetime mortgage* affect the *customer's* payments;
- (5) if (3) or (4) apply the maximum or minimum interest rate, or both, and the payments at each of these interest rates; and
- (6) if the *lifetime mortgage* is made up of a number of different parts including different types of interest rate and different rates of

interest, an explanation of when or how increases in the interest rate charged on the *lifetime mortgage* affect the *customer's* payments for each part (or combination of parts).

9.4.54

R

- (1) Except where (3) applies, where the *customer* is required to make payments to the *mortgage lender* on the *lifetime mortgage*, and the *customer's* payments can vary with changes in interest rates at any time during the life of the *lifetime mortgage*, Section 9: "Will the interest rate change?" must also contain the following text: "The [frequency of payments from **■ MCOB 9.4.37 R**] payments shown in this illustration could be considerably different if interest rates change. For example, for one percentage point increase in [describe the interest rate that applies], your [frequency of payments] payment will increase by around £ [insert amount by which payment will increase] .".
- (2) If **■ MCOB 9.4.53 R**(6) applies the following additional text must be included after the text in (1), for each part (or combination of parts), where the amounts by which the *customer's* payments would increase are different: "After the [describe the type of interest rate that applies, the part (or parts) to which it applies and date or period for which it applies] then for one percentage point increase in [describe the interest rate that applies], your [insert frequency of payments] payment will increase by around £ [insert amount by which payment will increase] .".
- (3) Paragraph (1) does not apply where the difference between the interest rate included in the *illustration* in accordance with **■ MCOB 9.4.39 R** and the maximum interest rate that can be charged on the *lifetime mortgage* is less than one percentage point.

9.4.55

R

The amount by which the *customer's* payments would increase in accordance with **■ MCOB 9.4.54 R**(1) must be calculated as follows:

- (1) the firm must use the total amount borrowed, or assume that all payments due on the *lifetime mortgage* have actually been paid, all additional fees and payments due have been paid, and no underpayments or overpayments have been made; and
- (2) the interest rate from which the increase is calculated must be the variable interest rate charged on the *lifetime mortgage* at the date that the *illustration* is issued (that is, the variable interest rate quoted in Section 5 of the *illustration*); where the variable interest rate changes after a set period or on a set date it must be based on the initial variable interest rate charged on the *lifetime mortgage* at the date the *illustration* is issued (for example, if the initial interest rate is discounted, it must be based on the discounted rate).

9.4.56

G

Although the effect of a one percentage point increase in interest rates on the *customer's* payments is not completely linear, the purpose of **■ MCOB 9.4.54 R**(1) and (2) is to show the approximate effect of such an increase.

- 9.4.57** **R** Where the *customer* is not required to make payments to the *mortgage lender* on the *lifetime mortgage* and therefore all or part of the interest is rolled up, the following information must be included under the section heading "Will the interest rate change?":
- (1) if the interest rate is fixed throughout the life of the *lifetime mortgage*, an explanation that the estimated debt shown in accordance with ■ MCOB 9.4.51 R(6) will not vary because the interest rate is fixed;
 - (2) if the interest rate is fixed for part of the life of the *lifetime mortgage*, an explanation of when or how increases in the interest rate charged on the *lifetime mortgage* affect the estimated debt shown in accordance with ■ MCOB 9.4.51 R(6);
 - (3) if the interest rate cannot go above a certain level or below a certain level, or both, and this applies throughout the life of the *lifetime mortgage*, an explanation that this is the case; and
 - (4) if the interest rate cannot go above a certain level for part of the life of the *lifetime mortgage*, an explanation of when or how increases in the interest rate charged on the *lifetime mortgage* affect the estimated debt shown in accordance with ■ MCOB 9.4.51 R(6).

- 9.4.58** **R** Where the *customer* is not required to make payments to the *mortgage lender* on the *lifetime mortgage* and therefore all or part of the interest is rolled up, Section 9: "Will the interest rate change?" must also contain (if applicable):
- (1) if the interest rate is variable, the following text: "If the interest rate increases, the amount you owe will also increase. If the interest rate was [one percentage point higher than shown ■ MCOB 9.4.51 R(4)(b)] throughout the example term of [insert number of years - see ■ MCOB 9.4.10 R or ■ MCOB 9.4.12 R] years, the amount you would owe us at the end of that time would be: [insert amount]."; or
 - (2) if the interest rate will become variable at the end of a fixed or capped rate period, the following text: "If the interest rate increases after the [insert as applicable: fixed rate period or capped rate period] ends, the amount you owe will also increase. If the interest rate was [one percentage point higher than shown in ■ MCOB 9.4.51 R(4)(b) above] throughout the remainder of the example term of [insert number of years - see ■ MCOB 9.4.10 R or ■ MCOB 9.4.12 R] years, the amount you would owe us at the end of that time would be: [insert amount]."; or
 - (3) if a capped rate applies throughout the life of the *lifetime mortgage* and the interest rate at the date of issue of the *illustration* is lower than the capped rate, the following text: "If the interest rate increases, the amount you owe will also increase. The interest rate on this lifetime mortgage cannot be higher than [rate at which interest is capped] If the interest rate was [rate at which interest is capped] throughout the example term of [insert number of years - see ■ MCOB 9.4.10 R and ■ MCOB 9.4.12 R] years, the amount you would owe us at the end of that time would be: [insert amount].".

Risk warning

- 9.4.59RWhere ■ MCOB 9.4.54 R(1) applies, the following words must also be prominently displayed at the end of the sub-section "Will the interest rate change?" "Rates may increase by much more than this so make sure you can afford the [insert frequency of payments from ■ MCOB 9.4.37 R] payment."
- 9.4.60RWhere ■ MCOB 9.4.58 R(1) or (2) applies, the following words must also be prominently displayed at the end of the sub-section "Will the interest rate change?" "Your debt may increase significantly."
- 9.4.61G

Section 10 of a lifetime mortgage illustration: "How the value of your home could change"

- 9.4.62RWhere the *customer* is required to make payments to the *mortgage lender* on the *lifetime mortgage* in respect of the interest payable, and therefore the amount outstanding on the *lifetime mortgage* will broadly remain unchanged, Section 10: "How the value of your home could change" must contain the following text:"The amount you owe will usually stay the same over the life of the mortgage so the amount due to [name of *mortgage lender*] when the mortgage is repaid will be [amount of loan], unless charges have to be added."
- 9.4.63RWhere the *customer* is not required to make payments to the *mortgage lender* on the *lifetime mortgage* and therefore all or part of the interest is rolled up, Section 10: "How the value of your home could change" must contain the following text:"When you look at how the amount you owe [goes][may go] up, remember also that property prices can go up or down, and this can affect the amount of money left over for you or your estate after the mortgage is repaid to [name of mortgage lender]".
- 9.4.64RSection 10: "How the value of your home could change" must contain the following text in addition to the text in accordance with ■ MCOB 9.4.62 R or ■ MCOB 9.4.63 R:"Based on the estimated value of your home now of [insert amount from ■ MCOB 9.4.6 R(3)] this example shows what the value of your home would be after [insert term from ■ MCOB 9.4.10 R or ■ MCOB 9.4.12 R] years if the value went up by 1% each year or went down by 1% each year. Remember also that the mortgage may run for more or less than [insert term from ■ MCOB 9.4.10 R, or ■ MCOB 9.4.12 R] years. This is an example only and gives no guide to how much the value of your home will actually change. If your home went up in value by 1% each year it would be worth [insert amount] after [insert term from ■ MCOB 9.4.10 R, or ■ MCOB 9.4.12 R] years. If your home went down in value by 1% each year - it would be worth [insert amount] after [insert term from ■ MCOB 9.4.10 R or ■ MCOB 9.4.12 R] years."

Section 11 of a lifetime mortgage illustration: "What fees must you pay?"

- 9.4.65** **R** Under the section heading "What fees must you pay?" the *illustration* must:
- (1) itemise all the fees that are included in the calculation of the *APR* in accordance with **■ MCOB 10** (Annual Percentage Rate), excluding any charges for insurance set out in Section 12 in accordance with **■ MCOB 9.4.72 R**; and
 - (2) include a statement at the end of the section using the following text: "You may have to pay other taxes or costs in addition to any fees shown here."
- 9.4.66** **G** An example of a fee that would be included in Section 11 would be an administrative charge to redeem the *lifetime mortgage*. An example of a fee that would not be included would be a fee payable by the *customer* to insure their property elsewhere (however this would need to be stated in the separate "Insurance" section as required by **■ MCOB 9.4.72 R**). Where fees are payable only on early repayment of the *lifetime mortgage*, they should not be stated here (however these fees would need to be stated in Section 13 of the *illustration* "What happens if you do not want this mortgage any more", as required by **■ MCOB 9.4.83 R(1)(c)**).
- 9.4.67** **R** The fees included in this section in accordance with **■ MCOB 9.4.65 R** must be itemised under the relevant sub-headings as follows:
- (1) the fees that are payable by the *customer* to the *mortgage lender* must be itemised under the sub-heading "Fees payable to [name of mortgage lender]";
 - (2) the remaining fees must be itemised under the sub-heading: "Other fees"; and
 - (3) (a) if there are no fees to be itemised in accordance with (1), the sub-heading must be retained and a statement must be included that no fees apply;
 - (b) if there are no fees to be itemised in accordance with (2), the sub-heading must be retained and only the text in **■ MCOB 9.4.65 R(2)** applies.
- 9.4.68** **R** The following information must be provided for each fee included in this section of the *illustration* in accordance with **■ MCOB 9.4.65 R(1)**:
- (1) a description of the fee;
 - (2) the amount payable by the *customer* recorded in a column headed "Fee amount" on the right-hand side of this section;
 - (3) for fees included under the sub-heading "Other fees", to whom the fee is payable;
 - (4) when the fee is payable;

		<div><div>(5) whether or not the fee is refundable, and if so, the extent to which it is refundable;</div><div>(6) which fees (if any) are estimated in accordance with ■ MCOB 9.4.114 R(2) and based on representative information; and</div><div>(7) if any fee is payable after the start of the <i>lifetime mortgage</i> and subject to change in the future, for example a fee payable on final repayment of the <i>lifetime mortgage</i>, the amount of that fee, along with a statement that this is the 'current fee'.</div></div>
9.4.69	R	<div><div>(1) If a <i>higher lending charge</i> is payable by the <i>customer</i>, the following text must be used to describe such a charge for the purposes of ■ MCOB 9.4.68 R: "A higher lending charge is payable because you are borrowing [insert the ratio of the mortgage amount (from ■ MCOB 9.4.13 R) to the property's price or value (from ■ MCOB 9.4.6 R(3))] of the property's [estimated] [price/value]."</div><div>(2) If the <i>customer</i> has asked for any fees to be added to the loan, this must be stated alongside each fee.</div><div>(3) If the <i>customer</i> has the option of adding to the loan amount any of the fees included in this section, the following text must be included: "If you wish you can add [this/these/the {type of fee}] fee(s) to the lifetime mortgage. This will increase the amount you owe to [insert amount of the lifetime mortgage with the fee(s) included] and will increase the amount you owe shown in Section 8. If you want to do this, you should ask for another illustration that shows the effect of this on the amount you owe"</div><div>(4) Any fees that are estimated based on representative information in accordance with ■ MCOB 9.4.114 R(2) must include an appropriate explanation of what the fee represents. For example, if this section includes an estimated fee for the legal work that the <i>customer</i> might be charged by his conveyancer for carrying out work on behalf of the <i>mortgage lender</i>, the <i>illustration</i> must explain that the fee is estimated, and that it only covers part of the costs of legal work that the <i>customer</i> might need to pay.</div></div>
9.4.70	G	"Other fees" will include any fee charged by a <i>mortgage intermediary</i> , or another third party, for advising on or <i>arranging a lifetime mortgage</i> , but not commission or <i>procuration fees</i> (which are dealt with in Section 16 of the <i>illustration</i>).
9.4.71	R	A <i>mortgage lender</i> must provide a <i>tariff of charges</i> to the <i>customer</i> , if the <i>customer</i> so requests.
9.4.72	R	<div><div>Section 12 of a lifetime mortgage illustration: "Insurance"</div><div>(1) Under the section heading "Insurance" the <i>illustration</i> must include details of:<div>(a) insurance which is a <i>tied product</i> and</div></div></div>

- (b) insurance which is required as a condition of the *lifetime mortgage* which is not a *tied product*
- (2) Under this section heading a *firm* may also provide details of insurance which is optional for the *customer* to take out.
- (3) It must be clear to the *customer* which products he is required to purchase under which circumstances (for example, where both a *tied product* and a *mortgage intermediary* are involved, whether the policy must be purchased from the *mortgage lender* or the *mortgage intermediary*).
- 9.4.73** **R** Under the sub-heading 'Insurance you must take out through [insert name of *mortgage lender* or where relevant the name of the *mortgage intermediary*, or both]' the following information must be included if the *lifetime mortgage* requires the *customer* to take out insurance that is a *tied product* either through the *mortgage lender* or where relevant the *mortgage intermediary*:
- (1) details of which insurance is a *tied product*;
- (2) for how long the *customer* is obliged to purchase the insurance;
- (3) an accurate quotation or a reasonable estimate of any payments the *customer* needs to make for the insurance;
- (4) where a quotation is provided for insurance in accordance with (3) on the basis of an estimated sum insured, because the actual required sum insured is unknown, the fact that it is estimated should be stated along with confirmation of the level of cover that has been assumed;
- (5) details of when the *customer's* payments for such insurance change, for example, if premiums are reviewed annually; and
- (6) where a quotation is not provided in accordance with (3), a statement of when and how a quotation will be provided (for example, separately and as soon as possible).
- 9.4.74** **G** *Firms* are reminded that **MCOB 5.4.23 R** requires a *firm* to provide a *customer* with an accurate quotation for any *tied products*. Where the level of cover the *firm* requires the *customer* to take up is known at the outset, then the quotation should reflect that level of cover.
- 9.4.75** **R** If the *lifetime mortgage* does not require the *customer* to take out insurance as a *tied product*, the sub-heading "Insurance you must take out through [insert name of *mortgage lender* and where relevant the name of the *mortgage intermediary*] "must be retained and a statement must be provided under this heading that the *customer* is not obliged to take out any insurance through the *mortgage lender* or, where relevant, the *mortgage intermediary*.
- 9.4.76** **R** The following information must be included under the sub-heading "Insurance you must take out as a condition of this mortgage but that you

do not have to take out through [insert name of *mortgage lender* or where relevant the name of the *mortgage intermediary*, or both]":

- (1) if the *lifetime mortgage* requires the *customer* to take out an insurance policy (other than that which is a *tied product* which the *customer* is obliged to purchase through the *mortgage lender* or where relevant the *mortgage intermediary*), a brief statement of the type of insurance the *firm* requires; a quotation for such insurance may be included in the *illustration*, estimated where necessary;
- (2) if the *mortgage lender* or the *mortgage intermediary* makes a charge in cases where the *customer* does not arrange insurance that is a condition of the mortgage through the *mortgage lender* or the *mortgage intermediary*, this must be stated, together with the amount of the charge and the frequency with which this charge is payable; and
- (3) if no insurance policies are required (other than that which is a *tied product*), the sub-heading "Insurance you must take out as a condition of this mortgage but that you do not have to take out through [insert name of *mortgage lender* and, where relevant the *mortgage intermediary*]" must be retained in the *illustration* and a statement must be provided under this heading that no such insurance is required.

- 9.4.77** G Under the sub-heading "Insurance you must take out as a condition of this mortgage but that you do not have to take out through [insert name of *mortgage lender* or where relevant the name of the *mortgage intermediary*, or both]", the *illustration* should not include any insurance policy that may be taken out by a *mortgage lender* itself to protect its own interests rather than the *customer's* interests, for example, because of the ratio of the loan amount to the property value.
- 9.4.78** G If the cost of any insurance that the *mortgage lender* might take out to protect its own interests because of the ratio of the loan to the property value is passed on to the *customer*, it will be shown elsewhere in the *illustration*, for example as a *higher lending charge* or in the interest rate charged.
- 9.4.79** R A *firm* may include in the *illustration*, under the sub-heading "Optional insurance", quotations (estimated where necessary) for any insurance products (other than the insurance products covered elsewhere in the *illustration* in accordance with ■ **MCOB 9.4.72 R** and ■ **MCOB 9.4.76 R**) that the *firm* issuing the *illustration* wishes to sell to the *customer*.
- 9.4.80** R If no quotations are included in the *illustration* in accordance with ■ **MCOB 9.4.79 R**, the sub-heading "Optional insurance" must not be included in the *illustration*.
- 9.4.81** R (1) If any quotations for insurance are included in the *illustration* in accordance with ■ **MCOB 9.4.73 R(3)**, ■ **MCOB 9.4.76 R(1)** or ■ **MCOB 9.4.79 R**, the *illustration*:

- (a) must include a brief description only of the type of insurance (full details of the insurance cover may however be provided separately); and
- (b) (i) must include the total price to be paid by the *customer* in a column on the right hand side of the *illustration* under the heading "[insert frequency of payments quoted] payments"; and
- (ii) may refer the *customer* to the individual insurance product disclosure documentation.
- (2) If the *customer* has asked to add any insurance premiums or insurance-related charges to the amount borrowed in accordance with ■ MCOB 9.4.21 R(4), the illustration must state that this is the case.

9.4.82

G

The terms on which an insurance premium has been calculated should be presented to the *customer* in the format determined by the relevant regulatory requirements.

Section 13 of a lifetime mortgage illustration: "What happens if you do not want this mortgage any more?"

9.4.83

R

Under the heading "What happens if you do not want this mortgage any more?", the *illustration* must include the following information on the *lifetime mortgage*:

- (1) under the sub-heading "Early repayment charges":
 - (a) an explanation of whether *early repayment charges* are payable;
 - (b) an explanation of when *early repayment charges* are payable;
 - (c) an explanation of any other fees that are payable if the *lifetime mortgage* is repaid early, and the current level of these fees;
 - (d) a basic explanation of the basis on which *early repayment charges* are calculated (for example, as a percentage of the loan or as so many months' interest), including, where appropriate, details of any *cashback* or other incentives that must be repaid. The *illustration* may refer to a separate document for full details of all terms and conditions relating to the charges that apply if the *lifetime mortgage* is repaid early;
 - (e) example cash amounts of any *early repayment charges* indicating the range of charges that apply over the period during which such charges apply calculated in accordance with ■ MCOB 9.4.88 R, which must be described in the *illustration* as "cash examples";
 - (f) the maximum *early repayment charge* that the *customer* could be charged in accordance with ■ MCOB 12.3 (Early repayment charges), which must be shown as a cash amount and described in the *illustration* as "the maximum charge you could pay" [add if applicable, "plus (a) fee(s) which (is/are) currently £x"]; and
 - (g) details of whether or not the *lifetime mortgage* is portable on moving house and a brief explanation of any conditions or restrictions that apply including whether there are any restrictions on changing the terms of the *lifetime mortgage* during the period in which any *early repayment charges* apply (a

reference to another document may be made in order to provide the *customer* with further details of the conditions or restrictions);

- (2) under the sub-heading "Circumstances in which early repayment charges do not apply", a clear statement of the circumstances in which no *early repayment charges* will be payable by the *customer*. (This may include moving to another property, or into sheltered accommodation or residential care.) Where the *lifetime mortgage* is portable on moving house but no *early repayment charges* are payable by the customer, the remaining information required by ■ MCOB 9.4.83 R(1)(g) should be included here.

9.4.84 **G** The requirements in ■ MCOB 9.4.83 R(1) may be presented in a tabular format.

9.4.85 **G** Where a *firm* does not impose an *early repayment charge*, it may delete the sub heading 'Circumstances in which early repayment charges do not apply'.

9.4.86 **R** Where ■ MCOB 9.4.83 R(1)(e) would result in more than three cash amounts being shown in the *illustration*, the cash amounts shown in the *illustration* may be restricted to three examples. These three examples are in addition to the maximum *early repayment charge* required by ■ MCOB 9.4.83 R(1)(f). These examples must be representative of the full range of charges that apply and not be limited to the lowest charges that apply. These three examples are in addition to:

- (1) any statement of the amount of any fees described in ■ MCOB 9.4.83 R(1)(c); and
- (2) the maximum *early repayment charge* required by ■ MCOB 9.4.83 R(1)(f).

9.4.87 **G** An example which would comply with MCOB 9.4.86R would be if a five year fixed rate mortgage had a charge which reduced linearly by 1% each year from 5% in the first year to 1% in the final year and cash examples were used based on 5% in year 1, 3% in year 3 and 1% in year 5.

9.4.88 **R**

- (1) In calculating example cash amounts in accordance with ■ MCOB 9.4.83 R(1)(e), it must be assumed that:
 - (a) the *lifetime mortgage* is repaid in full;
 - (b) all payments due (if applicable) on the *lifetime mortgage* are actually paid;
 - (c) additional fees and charges such as insurance premiums have been paid; and
 - (d) no underpayments or overpayments (if applicable) have been made.
- (2) If:
 - (a) *cashbacks* or other incentives need to be repaid; or
 - (b) fees need to be paid;

		<p>the amounts that would need to be repaid or paid must be included in the example cash amounts.</p> <p>(3) Where the calculation of the <i>early repayment charge</i> is based on the interest rate charged on the <i>lifetime mortgage</i>, or on interest rates generally, the interest rate(s) used for the calculation of the example cash amounts must be those in force at the date that the <i>illustration</i> is issued to the <i>customer</i>.</p> <p>(4) The example cash amounts must reflect the maximum charge in a particular year. Where it is possible to state exact <i>early repayment charges</i> (that is, where all such charges are based on the original amount borrowed), the <i>illustration</i> must do so.</p>
9.4.89	R	Where the cash examples from ■ MCOB 9.4.88 R included in the <i>illustration</i> would vary either if the interest rate charged on the <i>lifetime mortgage</i> changed or with changes in interest rates generally, an appropriate warning that the <i>early repayment charges</i> may vary from the cash examples must be included in the <i>illustration</i> .
9.4.90	R	Where the <i>early repayment charge</i> could be higher than those stated in the <i>illustration</i> if the <i>lifetime mortgage</i> continued after the end of the term estimated in accordance with ■ MCOB 9.4.10 R or ■ MCOB 9.4.12 R, Section 13 of the <i>illustration</i> must include a clear statement to that effect.
		<p>Section 14 of a lifetime mortgage illustration: "Additional features"</p> <p>.....</p>
9.4.91	R	Under the section heading "Additional features" the <i>illustration</i> must include, where relevant, details of how the <i>mortgage lender</i> would treat any payments by the <i>customer</i> in excess of those required, and details of any additional features or facilities under the various sub-headings in ■ MCOB 9.4.93 R.
9.4.92	R	<p>(1) If none of the features at ■ MCOB 9.4.93 R are applicable to the <i>lifetime mortgage</i> to which the <i>illustration</i> relates, the section headed 'Additional features' must be retained, but the sub-headings must not be included and a statement must be added to explain that there are no additional features.</p> <p>(2) Only those features available on the <i>lifetime mortgage</i> need be included in the <i>illustration</i>.</p> <p>(3) If a <i>firm</i> provides a <i>customer</i> with supplementary information about any additional features or facilities over and above the information required under ■ MCOB 9.4.91 R to ■ MCOB 9.4.110 R, the <i>firm</i> may include a reference to that supplementary information in Section 14.</p>
9.4.93	R	<p>The relevant sub-headings are as follows:</p> <p>(1) "Overpayments"</p> <p>(2) "Underpayments"</p>

		<ul style="list-style-type: none"> (3) "Payment holidays" (4) "Borrow back" (5) "Additional borrowing available without further approval" (6) "Additional secured borrowing" (7) "Credit card" (8) "Unsecured borrowing" (9) "Linked current account" and (10) "Linked savings account".
9.4.94	R	<ul style="list-style-type: none"> (1) Under the sub-heading 'Overpayments', the <i>illustration</i> must include details of any restrictions on lump sum and regular overpayments (if payments are required) on the <i>lifetime mortgage</i>, together with a statement as to whether or not the amount on which the interest is recalculated is reduced immediately on receipt of any lump sum or regular overpayment. (2) Where such recalculation does not take place immediately (for example, if an annual rest method is used), this statement must be accompanied by an explanation of when the amount on which the interest is recalculated is reduced following a lump sum or regular overpayment. (3) Where <i>early repayment charges</i> apply, this section must not repeat the details provided in Section 13 of the <i>illustration</i>, but may refer to Section 13.
9.4.95	G	Where the interest recalculation described in MCOB 9.4.94 R takes place immediately, <i>firms</i> may add a statement in this section explaining that the <i>customer</i> will get the benefit of the overpayment immediately.
9.4.96	R	Under the sub-heading "Underpayments", the <i>illustration</i> must include details of whether the <i>customer</i> can make underpayments and a brief statement of any conditions that apply.
9.4.97	R	Under the sub-heading "Payment holidays", the <i>illustration</i> must include details of circumstances in which the <i>customer</i> can take <i>payment holidays</i> and a brief statement of any conditions that apply.
9.4.98	R	Under the sub-heading "Borrow back", the <i>illustration</i> must include details of circumstances in which the <i>customer</i> can <i>borrow back</i> any monies overpaid and a brief statement of any conditions that apply.
9.4.99	R	Under the sub-heading "Additional borrowing available without further approval", the <i>illustration</i> must provide details of circumstances in which additional <i>secured lending</i> is offered with the <i>lifetime mortgage</i> that would

- allow the *customer*, subject to certain conditions, to increase the amount of the loan on which the *illustration* is based.
- 9.4.100 R** Under the sub-heading "Additional secured borrowing", the *illustration* must provide details of circumstances in which additional *secured lending* is offered with the *lifetime mortgage* that would allow the *customer*, subject to certain conditions, to increase the amount of the loan on which the *illustration* is based.
- 9.4.101 R** Under the sub-heading "Unsecured borrowing", the *illustration* must provide details of circumstances in which *unsecured lending* is offered with the *lifetime mortgage* that would allow the *customer* to increase the amount of the loan on which the *illustration* is based.
- 9.4.102 R** Under the sub-heading "Credit card", the *illustration* must:
- (1) state whether a credit card is offered with the *lifetime mortgage*; and
 - (2) if a credit card is offered and it is a *mortgage credit card*:
 - (a) unless (b) applies, include the following text: "This card will not give you a number of the statutory rights associated with traditional credit cards. Your lifetime mortgage offer will tell you more about the differences." or
 - (b) where the *mortgage lender* provides the *customer* with contractual rights in relation to a *mortgage credit card* equal to or greater than the rights that the *customer* would have under the Consumer Credit Act 1974 and *CONC* if the card were issued under a *regulated credit agreement*, include the following text: "This card will not give you a number of the statutory rights associated with traditional credit cards. However, [insert name of *mortgage lender*] will ensure that you will be treated no differently from the user of a traditional credit card. Your lifetime mortgage offer will tell you more about this."
- 9.4.103 R** Where any of the additional features under ■ MCOB 9.4.99 R to ■ MCOB 9.4.102 R inclusive apply, then the following must also be stated if the amount of additional borrowing that would be available to the *customer* is stated in the *illustration*:
- (1) the maximum additional amount available;
 - (2) if the interest rate payable on any additional borrowing is different to the interest rate in Section 5 and Section 8 of the *illustration*, the interest rate and the *APR* charged on the additional borrowing. The *APR* must be calculated in accordance with MCOB 10 (Annual Percentage Rate), based on the maximum amount of additional borrowing that would be permitted for the *customer* and the term of the loan from ■ MCOB 9.4.10 R or ■ MCOB 9.4.12 R;
 - (3) the total resulting debt the *customer* could incur (including the original loan amount);

- (4) the payments on this total debt based on the frequency of payments in ■ MCOB 9.4.37 R (if payments are required) and the current interest rate(s) applying on the date the *illustration* is issued;
- (5) whether this additional borrowing must be repaid in full if the original loan is repaid in full, along with details of any conditions that apply;
- (6) if *early repayment charges* apply to the additional amount borrowed:
 - (a) that *early repayment charges* are payable;
 - (b) an explanation of when *early repayment charges* are payable; and
 - (c) the maximum *early repayment charge* that the customer could be charged in accordance with ■ MCOB 12.3 which must be shown as a cash amount; and
- (7) if it is the case, that the maximum amount of borrowing available, or the terms and conditions, may change depending on other factors such as ratio of the loan amount to the property value.

9.4.104 R Where more than one additional borrowing facility from ■ MCOB 9.4.99 R to ■ MCOB 9.4.102 R applies, the total debt and total payments due (if payments are required) under all these *linked borrowing* facilities must be included under a separate sub-section titled 'Total additional borrowing'.

9.4.105 G The purpose of ■ MCOB 9.4.104 R is to show the total amount of any additional borrowing facilities that would be available to the *customer* and the cost of utilising these facilities. It must combine the amount available under any *linked borrowing* facilities including additional *secured lending*, credit cards and *unsecured lending*.

9.4.106 R

- (1) Where additional features are included in accordance with ■ MCOB 9.4.91 R and these are credit facilities that do not meet the definition of a *regulated mortgage contract* or a *regulated credit agreement*, the relevant parts of Section 14 of the *illustration* must include the following text:

"This additional feature is not regulated by the FCA."
- (2) Where additional features are included in accordance with ■ MCOB 9.4.91 R and these are credit facilities that meet the definition of a *regulated credit agreement* regulated by the Consumer Credit Act 1974 and the *Act*, the relevant parts of Section 14 of the *illustration* must include the following text 'This additional feature is regulated under the Consumer Credit Act 1974 and the Financial Services and Markets Act 2000. You will receive a separate credit agreement with any offer document for this additional feature, describing the detailed terms on which this feature is available.'

9.4.107 R Where all or part of the maximum amount of additional borrowing is secured on the *customer's* home, a prominent warning must be included that additional borrowing increases the amount of credit secured on the *customer's* home.

- 9.4.108** **G** Suitable wording for the warning contained in ■ **MCOB 9.4.107 R** would be: "This will increase the amount of borrowing secured on your home.".
- 9.4.109** **R** Under the sub-heading "Linked current account" the illustration must include the following information:
- (1) whether a linked current account is a compulsory or optional product (if the current account is a compulsory product this must also be stated in Section 5 of the *illustration* in accordance with ■ **MCOB 9.4.24 R(7)**);
 - (2) an explanation of the interest rates that apply under different circumstances to the linked current account, if different from the interest rate charged on the *lifetime mortgage* (for example, if a different interest rate applies if the account is overdrawn); and
 - (3) the *firm* providing the linked current account if it is not the *mortgage lender*.
- 9.4.110** **R** Under the sub-heading "Linked savings account" the *illustration* must include the following information:
- (1) whether a linked savings account is a compulsory or optional product (if the savings account is a compulsory product this must also be stated in Section 5 of the *illustration* in accordance with ■ **MCOB 9.4.24 R(7)**);
 - (2) the interest rate paid on the linked savings account if it differs from the interest rate charged on the *lifetime mortgage*; and
 - (3) the *firm* providing the linked savings account if it is not the *mortgage lender*.
- Section 15 of a lifetime mortgage illustration: "Overall cost of this mortgage"**
- 9.4.111** **R** Under the section heading "Overall cost of this mortgage":
- (1) the following text must be included in the illustration: "The APR helps you to compare lifetime mortgages by giving you one rate that shows the overall cost of the mortgage. It takes into account some fees and charges as well as the interest due, and this means that the APR may be higher than the interest rate shown in Sections 5 and 8. Only use the APR to compare lifetime mortgages of the same type, and where the same example term is used."
 - (2) where the *customer* is required to make payments on the *lifetime mortgage* the following text must also be included in the *illustration*: "The overall cost takes into account the payments in Sections 8 and 11 above."; and
 - (3) reference must be made to any other payments that have been included in the *APR* but not included in Sections 8 and 11 of the *illustration* if these are relevant to the *lifetime mortgage* that is the subject of the *illustration*.

- 9.4.112** **G** ■ MCOB 9.4.111 R(3) would require, for example, a reference to the fact that the overall cost takes into account mortgage payment protection insurance where this is required as a condition of the *lifetime mortgage* to which the *illustration* relates. The requirement to take out such insurance must be stated in Sections 5 and 12 of the *illustration* in accordance with ■ MCOB 9.4.24 R(7), ■ MCOB 9.4.72 R or ■ MCOB 9.4.76 R.
- 9.4.113** **R** The following text must be included after the text required by ■ MCOB 9.4.111 R with the relevant cost measures shown in the right-hand column of Section 15 in accordance with the layout shown in ■ MCOB 9 Annex 1:
- (1) "The total amount you would pay back over the example term of [insert number of years in accordance with ■ MCOB 9.4.10 R or ■ MCOB 9.4.12 R] including the amount borrowed is £ [insert *total amount payable*]", and
 - (2) "The overall cost for comparison is [insert the *APR*] % *APR*."
- 9.4.114** **R** (1) The *APR* and the *total amount payable* in ■ MCOB 9.4.113 R must be calculated on the basis of information obtained from the *customer* in accordance with ■ MCOB 9.4.6 R.
- (2) Where there is a charge to be included in the *APR* and *total amount payable* and the precise amount of that charge is not known at the time that the *illustration* is provided, ■ MCOB 10.3 (Formula for calculating the *APR*) sets out a number of relevant assumptions to be used. If the method for including the charge is not addressed in MCOB 10 (Annual Percentage Rate), the charge must be estimated based on information which is known to be representative of the *lifetime mortgage* to which the *illustration* relates.
- (3) Where the *lifetime mortgage* is an *interest roll-up mortgage*, the *total amount payable* must be based on the total amount that the *customer* would owe at the end of the example term.
- 9.4.115** **G** In relation to ■ MCOB 9.4.114 R(2), the cost of conveyancing would be an example of a charge for which representative information may need to be used in the calculation of the *APR* and the *total amount payable*.
- 9.4.116** **R** At the end of Section 15 the following text must be included, if relevant: "The figures in this section will vary following interest rate changes."
- 9.4.117** **G** The prescribed text at ■ MCOB 9.4.116 R would not be relevant if the *illustration* is for a *lifetime mortgage* that has a fixed interest rate throughout the life of the mortgage.
- 9.4.118** **G** The purpose of the *illustration* is to provide the *customer* with details of the cost of borrowing the amount required over the example term from ■ MCOB 9.4.6 R and ■ MCOB 9.4.10 R (or ■ MCOB 9.4.12 R). Section 14 has been designed specifically to allow examples of the effect of any additional

features of the *lifetime mortgage* such as a linked current account. Examples of these features should therefore be shown in Section 14 and not in Section 15 or Section 8 of the *illustration*.

Section 16 of a lifetime mortgage illustration: "Using a mortgage intermediary"

9.4.119 **R** Where the *illustration* is issued to a *customer* by, or on behalf of, a *mortgage intermediary*, Section 16 "Using a mortgage intermediary" must be included in the *illustration* and must include the following:

- (1) unless **■ MCOB 9.4.120 R** applies, a clear statement of the amount payable (either directly or indirectly) by the *mortgage lender* to the *mortgage intermediary*, or to any third parties; and
- (2) the name of the *mortgage lender* who will make the payment, the name of the *mortgage intermediary* and the names of any third parties who will be paid.

9.4.120 **R** If the amount payable by the *mortgage lender* to the *mortgage intermediary* and to third parties is £250 or less, the mortgage intermediary need only state that the amount of the payment is "no more than £250", unless the *customer* requests the actual amount.

9.4.121 **R** If the *mortgage intermediary* will pass to the *customer* all or part of the amount payable to the *mortgage intermediary* under **■ MCOB 9.4.119 R(1)** or **■ MCOB 9.4.120 R**, that fact may be stated in this section, along with the amount payable to the *customer*.

9.4.122 **R** If the *mortgage lender* will make no payment to the *mortgage intermediary* or any third party, this section may state that the *mortgage intermediary* will receive no payment.

9.4.123 **R** The amount payable in **■ MCOB 9.4.119 R(1)** or **■ MCOB 9.4.120 R** must include, but is not limited to:

- (1) any *procuration fee*; and
- (2) a cash value for any material non-cash inducements that the *mortgage lender* provides to a *mortgage intermediary* or third party, whether payable directly or indirectly.

9.4.124 **G** **■ MCOB 2.3.7 R** requires any material inducements provided by a *mortgage lender*, whether directly or indirectly, to a *mortgage intermediary* or third party (unless the payment only reflects the cost of outsourcing work relating to the processing of mortgage applications by a *firm* unconnected to the *mortgage intermediary*) to be quantified in cash terms, which will enable the cash values to be included in the *illustration* in accordance with **■ MCOB 9.4.123 R**.

- 9.4.125 **G** An example of a statement which would comply with **■ MCOB 9.4.119 R** and **■ MCOB 9.4.123 R** would be: "[name of *mortgage lender*] will pay [name of *mortgage intermediary*] an amount of £350 in cash and benefits if you take out this lifetime mortgage."

Contact details

- 9.4.126 **R** This section must:
- (1) follow Section 15 "Overall cost of this mortgage", unless the *illustration* is issued by a *mortgage intermediary*, in which case it must follow Section 16 "Using a mortgage intermediary"; and
 - (2) include the name, address and contact point of the *firm* providing the illustration.

- 9.4.127 **G** An example of wording which would comply with **■ MCOB 9.4.126 R(2)** would be: "If you wish to discuss this lifetime mortgage illustration please contact [name of individual] at [address] or on [telephone number]."

Foreign currency mortgages

- 9.4.128 **R** If the *customer's* liability under a *lifetime mortgage* is in a currency other than sterling, **■ MCOB 9.4** applies to the *illustration* for that *lifetime mortgage* with the following modifications:
- (1) all cash amounts must be given in the relevant currency except where otherwise required by (2)(a) and (3);
 - (2) the following information must be stated under Section 5 "Description of this mortgage"
 - (a) the amount in sterling on which the *illustration* is based from **■ MCOB 9.4.13 R** based on the exchange rate in (2)(b);
 - (b) the exchange rate used; and
 - (c) when the exchange rate quoted applied;
 - (3) the following text must be added at the end of Section 5 "Description of this mortgage": "This illustration is based on the sterling equivalent of [insert details from (2)(a)] based on [insert details from (2)(b)] as at [insert details from (2)(c)]. Exchange rates can vary significantly. The effect of a 5% decrease in the value of sterling to the [insert name of relevant currency] would increase your total borrowing to [insert amount to which the amount borrowed from **■ MCOB 9.4.13 R** would increase in sterling]. [Insert if payments are required: This would increase your [insert frequency of payments from **■ MCOB 9.4.37 R**] payments by the sterling equivalent of £ [insert amount in sterling]]." The following information must be added to this text:
 - (a) the cash amount to which the amount borrowed would increase in sterling if there was a decline of 5% in the value of sterling when compared to the relevant currency; and
 - (b) if payments are required, the amount by which (2)(b) would increase the *customer's* payments based on the frequency of

payments from ■ MCOB 9.4.37 R, shown as a sterling equivalent cash amount.

Risk warning

- 9.4.129 **R** The text at ■ MCOB 9.4.33 R(8) must be immediately followed by the following additional text, prominently displayed: "Changes in the exchange rate may increase the sterling equivalent of your debt."

Shared appreciation mortgages

- 9.4.130 **R** If the *lifetime mortgage* is a *shared appreciation mortgage*, ■ MCOB 9.4 applies to the *illustration* with the following modifications:

- (1) Section 5 "Description of this mortgage" must contain the following additional information and text in this order after the details required by ■ MCOB 9.4.24 R to ■ MCOB 9.4.29 R:
 - (a) "This lifetime mortgage involves [name of *mortgage lender*] taking a percentage share in any increase in the value of your property [insert details of all occasions when the share will be payable to the *mortgage lender*, for example, "after x years, or when this lifetime mortgage comes to an end or is terminated early"]. The amount [name of *mortgage lender*] will take depends on any increase in the value of your property." [Include if relevant: "If your property falls in value between now and the end of this lifetime mortgage you will be required to pay [add details of what the *customer* will need to pay the *mortgage lender* if the property falls in value]."
 - (b)
 - (i) a basic explanation of how the amount of the share payable to the *mortgage lender* is calculated including the proportions of any given increase in the value of the property and whether this is dependent on the level of growth (for example, that the share payable to the *mortgage lender* is all of the increase in value of the property for the first 5% increase in value, plus half of the additional increase in the value of the property above this);
 - (ii) a reference to a separate document for full details of the terms and conditions relating to the amount of the share payable followed by: "The example below shows how this works. EXAMPLE: Based on the current [estimated] value of your home of [insert details from ■ MCOB 9.4.6 R(3)], the example(s) below show(s) what the value of your home would be and what share of that value [name of *mortgage lender*] would take after [insert example term of the loan in accordance with ■ MCOB 9.4.10 R or ■ MCOB 9.4.12 R or the term after which the equity share becomes payable if less] if the value of your home increased. [Include if relevant: "and what would happen if your home decreased in value".] Please note that you should add this payment to the amount of any *early repayment charges* that may be payable " see Section 13"
 - (c) except where (g) applies, example cash amounts for the value of the property and the corresponding amount of the equity share payable, assuming an average annual increase in the value of the

property secured by the *lifetime mortgage* of 1%, 5% and 10% over the example term from (i) below;

- (d) if the *customer* would be required to pay the *mortgage lender* an amount because the value of the property on which the *lifetime mortgage* would be secured had decreased from its value at the start of the term of the *lifetime mortgage*, include example cash amounts for the value of the property and the corresponding amount payable assuming an average annual decrease, in the value of the property secured by the *lifetime mortgage* of 1%, 5% and 10% over the term from (i) below;
 - (e) if the amount of the equity share payable cannot go above or below a certain level, an explanation that this is the case along with a cash example described as "the maximum amount you could pay";
 - (f) include this text after the cash examples in (c) (or, if applicable, after the cash examples in (d) or (e)): "This is not an indication of how the actual value of your home may change."
 - (g) where (c) or (d) apply and the maximum percentage equity share payable is less than the example percentages in (c) or (d), only cash examples for those percentages required by (c) or (d) which are below this maximum need be quoted, along with the maximum in accordance with (e);
 - (h) if there are no restrictions on the amount of the equity share payable, the following text should follow the text in (f): "The amount you will need to pay could be much higher than this." and
 - (i) for the purposes of the examples required by (c) or (d), the example term used must be stated and must be the estimated term of the *lifetime mortgage* in accordance with ■ MCOB 9.4.10 R or ■ MCOB 9.4.12 R or the term after which the equity share becomes payable, if less;
- (2) Section 10: "How the value of your home could change" of the *illustration* must contain the following text at the end of the section: "You also need to think about the cost of paying any share in the value of your home to [insert name of *mortgage lender*] - see Section 5."
- (3) Section 13 "What happens if you do not want this mortgage any more?" must contain the following text at the end of the first sub-heading "Early repayment charges": "Remember to add the cost of paying any share in the value of your home to [insert name of *mortgage lender*] " see Section 5."
- (4) Section 15 "Overall cost of this mortgage" of the *illustration* must contain the following text at the end of the section: "The APR and the total amount you must pay do not take account of the share that [insert name of *mortgage lender*] takes in any increase in the value of your home as described in Section 3. So you should not use these measures to compare this lifetime mortgage with other lifetime mortgages that do not involve [insert name of *mortgage lender*] taking a share in any increase in the value of your home."

- 9.4.131** **G** The requirements in ■ MCOB 9.4.130 R(1)(c) and (d) may be presented in a tabular format.
- 9.4.132** **R** **Risk warning**
The requirements at ■ MCOB 9.4.130 R(1) must be immediately followed by the following additional text, prominently displayed: "You will need to pay this share in the value of your home to [name of mortgage lender] [insert time at which share must be paid - for example 'when your lifetime mortgage is repaid']. Think carefully about how this will affect the amount left over for you or your estate."
- 9.4.132A** **R** **Certain lifetime mortgages**
■ MCOB 9.4.132DR applies if the terms of a *lifetime mortgage* contract:
- (1) (a) require the *customer* to make regular payments to the *mortgage lender*; or
(b) expect that the *customer* will make regular payments to the *mortgage lender*,
in respect of all or part of the interest, or part of the capital, due under those terms, either over the duration of the *lifetime mortgage* or until a specified date; but
 - (2) permit the *customer* to stop making the payments referred to in paragraph (1) at any time of his or her choosing (which may be a time before the specified date, if there is one); and
 - (3) provide that, if the *customer* does stop making the payments referred to in paragraph (1), no payment in respect of interest or capital due under those terms is payable to the *mortgage lender* until the *lifetime mortgage* comes to an end.
- 9.4.132B** **G** The type of *lifetime mortgage* described in ■ MCOB 9.4.132AR starts out with the *customer* making regular payments as they would with a regular (non-lifetime) *interest-only mortgage* or *repayment mortgage*, but converts into an *interest roll-up mortgage* if and when the *customer* chooses to stop making payments.
- 9.4.132C** **G** If only part of the loan under the *lifetime mortgage* is of the type described in ■ MCOB 9.4.132AR (for example, if part of the loan is on an interest roll-up basis from the outset, and part is convertible from interest-paying to interest roll-up):
- (1) the modifications set out in ■ MCOB 9.4.132DR apply only to that part of the loan that is of the type described in ■ MCOB 9.4.132AR; and
 - (2) the projection of roll-up of interest on the part of the loan that is on an interest roll-up basis from the outset should also be shown in Section 8B of the *illustration*, added to the projection of roll-up of interest on the convertible part of the loan.

9.4.132D **R**

■ MCOB 9.4 applies to the *lifetime mortgage illustration* with the following modifications:

- (1) Section 7 of the *illustration* ("Risks – important things you must consider") must also include information about any fees that may be charged, and other adverse consequences (such as a change in interest rate) that may occur, as a result of the *customer* choosing to convert the mortgage to interest roll-up.
- (2) Section 8(A) of the *illustration* should be headed "What you will owe and when (A) Details of mortgage payments." It should be completed on the assumption that the required or expected regular payments are made until the date on which the *lifetime mortgage* converts automatically to an *interest roll-up mortgage* or, if there is no such date, throughout the life of the *lifetime mortgage* as calculated according to ■ MCOB 9.4.10R.
- (3) The text accompanying the *illustration* in Section 8(A) must explain the basis on which it was prepared.
- (4) The following text must be shown in a box immediately under the heading to the table in Section 8(A) of the *illustration* ("What you will owe and when: Details of mortgage payments") as referred to in ■ MCOB 9.4.36G: "This shows the amounts you will pay if you keep up mortgage payments [throughout the estimated life of the lifetime mortgage][until [the date of automatic conversion to interest roll-up], when [Part [the number of the part] of] the mortgage will convert to an interest roll-up mortgage.] Under the terms of this mortgage, you can choose at any time to stop making payments and instead have interest added to the amount you owe. The illustration in Section 8(B) shows an example of how choosing to stop making payments could affect the amount you would owe under this lifetime mortgage."
- (5) Section 8(B) of the *illustration*, referred to in ■ MCOB 9.4.49G, should be headed "What you will owe and when (B) Projection of roll-up of interest". It must be based on the assumption that the interest due is added to the loan from an assumed date of conversion to an *interest roll-up mortgage* until the end of its term.
- (6) For the purpose of ■ MCOB 9.4.132DR(5), the assumed date of conversion must be:
 - (a) if the *customer* has estimated the date at which they will decide to convert the mortgage to an interest roll-up basis, that date; or
 - (b) in the absence of such an estimate, the earlier of:
 - (i) the date (if any) on which the *lifetime mortgage* converts automatically to an *interest roll-up mortgage*, or
 - (ii) the date at which one-third of the assumed term for the *lifetime mortgage* (calculated as set out in ■ MCOB 9.4.10R) has passed.
- (7) If the *customer* must pay an additional fee for converting the loan to an interest roll-up basis at a time of their choosing, that fee must be included in the column headed "Fees charged during the year" for the year of conversion assumed for the purposes of Section 8(B) of the *illustration*.

- (8) Immediately under the heading of the table required by ■ MCOB 9.4.51R, instead of the text set out in ■ MCOB 9.4.50R, the following text must appear:
- “This shows how the amount(s) paid to you and the interest and any fees that we charge mount up over [insert number of years estimated in accordance with ■ MCOB 9.4.10R or ■ MCOB 9.4.12R] years. It has been calculated based on the assumption that [Part [the number of the part] of] the mortgage converts to an interest roll-up basis after [insert number of years used for purposes of the illustration, as determined under ■ MCOB 9.4.132DR(6)] years. The amounts are calculated using the current interest rate(s) of [insert interest rate(s)]. After conversion to interest roll-up, interest is added to the amount you owe [insert frequency of roll-up of interest - e.g. monthly]. Remember that you may choose to convert [Part [the number of the part] of the mortgage] to interest roll-up earlier than after the [insert number of years used for the purposes of the illustration, as determined under ■ MCOB 9.4.132DR(6)] years assumed, and that the mortgage could run for a longer time than [insert number of years estimated in accordance with ■ MCOB 9.4.10R or ■ MCOB 9.4.12R] years. If you decide to convert earlier, or if the mortgage runs for longer than assumed, the amount you owe will be more than the amount shown in this illustration.”
- (9) In Section 15 of the *illustration* (“Overall cost of this mortgage”), the calculation of the total amount paid and the *APR* must be based on the assumption that the expected payments are made until the date on which the *lifetime mortgage* converts automatically to an *interest-roll-up mortgage* or, if there is no such date, throughout the life of the *lifetime mortgage* as calculated according to ■ MCOB 9.4.10R. An explanation of the assumption used should be included with the *illustration*, in addition to the text prescribed by ■ MCOB 9.4.111R.

9.4.132E G

- (1) An *illustration* for the type of *lifetime mortgage* described in ■ MCOB 9.4.132AR will include both Section 8(A) and Section 8(B). Section 8(A) will show the number and amount of required or expected regular payments from the start of the *lifetime mortgage* until maturity (i.e. what will happen if the mortgage never converts to an interest roll-up basis), or until the date (if any) at which the mortgage automatically converts. Section 8(B) will show what happens if the mortgage converts to interest roll-up at the date assumed for the purpose of the *illustration*. The first line of the table in Section 8(B) will show the number of years for which it is assumed payments will be made, referring to Section 8(A) for the number and amounts, and subsequent lines will show how the interest rolls up from the date of conversion onwards.
- (2) For this type of *lifetime mortgage*, Section 8(B) may appear immediately after Section 8(A), or at the end of the *illustration*, or in a separate document.

Section 1 of a home reversion plan illustration: "About this information"

9.4.133 R

Under the section heading "About this information", the prescribed text under this heading in the *home reversion plan illustration* must be included.

Section 2 of a home reversion plan illustration: "Which service are we providing you with?"

9.4.134

R

- (1) Unless (2) applies, under the section heading "Which service are we providing you with?" the prescribed text in the *home reversion plan illustration* under this heading must be included with a "check box" for each statement, one of which must be marked prominently to indicate the level of service provided to the *customer*;
- (2) If the level of service described in the *illustration* is provided by another *firm*, (1) may be replaced by the following: under the section heading "Which service are we providing you with?" the following text should be presented as two options with a "check box" for each option, one of which must be marked prominently to indicate the level of service provided to the *customer*: "[name of the *firm*] recommends, having assessed your needs, that you take out this home reversion plan." "[name of the *firm*] is not recommending a particular home reversion plan for you. However, based on your answers to some questions, it is giving you information about this home reversion plan so that you can make your own choice, or find out about other ways in which you may be able to release equity from your home."

Section 3 of a home reversion plan illustration: "What is a home reversion plan?"

9.4.135

R

Under the section heading "What is a home reversion plan?", the prescribed text in the *home reversion plan illustration* under this heading must be included.

Section 4 of a home reversion plan illustration: "What you have told us"

9.4.136

R

- (1) Under the section heading "What you have told us", the *illustration* must state the minimum information a *firm* must obtain from the *customer* (apart from details of the plan that the *customer* is interested in, which is in Section 5 of the *illustration*), and can include brief details of any other information that has been obtained from the *customer* and used to produce the *illustration*.
- (2) For an *instalment reversion plan*, where the *customer* requests an additional *illustration* showing a term of their choice, the term chosen by the *customer* must be stated in this section, together with a statement to the effect that the term is the *customer's* choice.
- (3) If the amount on which the *illustration* is based includes the amount that the *customer* wants to release less charges and other payments that have been deducted from the amount to be released:
 - (a) except where there are some fees or charges that have not been deducted, this section must include the following text after the amount to be released: " less £ [insert total amount of fees and other charges deducted from the amount to be released] for fees that have been deducted from the amount to be released - see Section 9 for details."; or
 - (b) where there are other fees or charges that the *customer* must pay that have not been deducted this section must include the

following text after the amount to be released: "less £ [insert total amount of fees and other charges deducted from the amount to be released] for fees that have been deducted from the amount to be released. These and the additional fees that you need to pay are shown in Section 9."

- (4) If the amount on which the *illustration* is based includes the amount that the *customer* wants to release less insurance premiums or insurance-related charges that have been deducted from the amount to be released:
 - (a) except where there are other insurance premiums or insurance-related charges that have not been deducted, this section must include the following text after the amount to be released (which may be combined with the prescribed text in (3) if applicable): "less £ [insert amount of premium or charges, or both, to be deducted from the amount to be released] for insurance [premiums] [and] [charges] that have been deducted from the amount to be released - see Section 10 for details."; or
 - (b) where there are other insurance premiums or insurance-related charges, or both, this section must include the following text after the amount to be released (which may be combined with the prescribed text in (3) if applicable): "less £ [insert amount of premium or charges, or both, to be deducted from the amount to be released] for insurance [premiums] [and] [charges] that have been deducted from the amount to be released. These and any additional insurance [premiums] [and] [charges] that you need to pay are shown in Section 10."
- (5) If the amount on which the *illustration* is based does not involve any charges or payments being deducted from the amount to be released, but there are charges that must be paid by the *customer*, Section 4 of the *illustration* must include the following text after the amount to be released: "No fees have been deducted from this amount but the fees you need to pay are shown in Section 9. For details of any insurance charges, see Section 10."
- (6) If the *home reversion plan* on which the *illustration* is based has no charges that must be paid by the *customer*, and no insurance premiums are being deducted from the amount to be released, Section 4 of the *illustration* must include the following text after the amount to be released: "We do not charge any fees for this home reversion plan."

9.4.137 R At the end of Section 4 of the *illustration* a statement must be included making clear that changes to any of the information obtained from the *customer*, and where appropriate to the valuation of the property, could alter the details elsewhere in the *illustration* and encouraging the *customer* to ask for a revised *illustration* in this event.

9.4.138 G An example is: "An independent valuation will be carried out and this, or changes to any of the information that you have given us, could alter the information in this illustration. If this is the case please ask for a revised illustration."

Section 5 of a home reversion plan illustration: "Description of this home reversion plan"

9.4.139

R

Under the section heading "Description of this home reversion plan" the *illustration* must:

- (1) state the name of the *reversion provider* providing the *home reversion plan* to which the *illustration* relates (a trading name used by the *reversion provider* may also be stated), and the name, if any, used to market the *home reversion plan*;
- (2) include a statement describing the *home reversion plan*;
- (3) if the *home reversion plan* is linked to an *investment*, and payments required from the *customer* on the *home reversion plan* will be deducted from the income from the *investment*, include a statement that this is the case;
- (4) if the *customer* is obliged to buy any *tied products* under the *home reversion plan*, include the following information:
 - (a) details of the *tied products* required;
 - (b) the following text: "You are obliged to take out [insert details of the *tied product(s)*] through [insert name of *reversion provider* or *reversion intermediary*] as a condition of this home reversion plan", and if the *tied product* is an insurance policy, "Please refer to Section 10 of this illustration for further details [of the insurance policies].";
- (5) state the term or estimated term of the *home reversion plan*;
- (6) state very briefly any restrictions that apply to the availability of the *home reversion plan* (for example, it is only available to certain types of *customer* or cannot be transferred to another property).

9.4.140

R

Further information about the *home reversion plan* may be included as long as it does not significantly:

- (1) duplicate information contained elsewhere in the *illustration*; and
- (2) extend the length of this section.

9.4.141

G

An example of further information that may be included might be that an "approval in principle" has been granted subject to valuation.

Section 6 of a home reversion plan illustration: "Benefits"

9.4.142

R

Under the section heading "Benefits", the *illustration* must include:

- (1) a description of the monetary amount(s), and in a box aligned to the right of the document, the monetary amount(s), that the *customer* will receive as a lump sum and/or as a regular payment;
- (2) if the *home reversion plan* is linked to an *investment* and the payments required from the *customer* on the *home reversion plan*

will be deducted from the income from the *investment*, the monetary amount of the net income the *customer* will receive;

- (3) if applicable, statements of any other benefits, incentives and guarantees that apply to the *home reversion plan*;
- (4) an explanation of how the monetary amount that the *customer* will receive was calculated; and
- (5) if the *home reversion plan* is an *instalment reversion plan*:
 - (a) whether the monetary amount that the *customer* will receive is guaranteed or variable (for example, because it is linked to the performance of another *investment*);
 - (b) an explanation of what happens to the monetary amount(s) not yet paid by the *reversion provider* if the *customer* (and, in the case of a joint plan, the surviving spouse or civil partner) dies; and
 - (c) if the monetary amount that the *customer* will receive is subject to the *customer* selling further parts of a qualifying interest in land to the *reversion provider*, whether these further sales are optional or compulsory.

9.4.143

G

Examples that may be appropriate to describe what the *customer* will receive are:

- (1) "Subject to the independent valuation, this home reversion plan will provide you with a lump sum of £[x] [or [state number of instalments] lump sums of £[x]].";
- (2) "The amount you are releasing will automatically be used to purchase a [name of linked *investment* product] from [name of provider]. The amount is £[x]."; and
- (3) "Subject to the independent valuation, this home reversion plan will provide you with a monthly payment from the start of your plan for [state period]. This will be £[x].".

9.4.144

G

An example that may be appropriate to explain how the amount the *customer* will receive was calculated is: "How we calculate this sum: Your property is worth about £[x]. Taking the information in Section 4 above into consideration, this plan will pay you [x] % [the amount, as a percentage, that the *reversion provider* will pay for the property] of the full market value of any portion of the property you decide to sell. For a lump sum of about £ [x] [insert the amount that the *customer* wants to release from the property], you will need to sell [x]% [state the proportion of the property, as a percentage, that the *customer* needs to sell to release the amount required] of your home. This will leave you with [x]% [state the proportion of the property, as a percentage, that will still be owned by the *customer*] of your property. At current values, this would be worth £[x] though the value of property may rise or fall in the future."

Section 7 of a home reversion plan illustration: "Risks - important things you must consider"

9.4.145

R

The *illustration* must include under the heading "Risks - important things you must consider" brief statements and warnings on all material risks involving a *home reversion plan*, including:

- (1) prominently at the beginning of the section: "A home reversion is a complex property transaction. You should seek legal advice to ensure that you fully understand all of the implications for you and your home and for anyone who might otherwise inherit the property.";
- (2) the effect of the *customer* wanting or needing to move home (whether into another property, sheltered accommodation, long-term care or residential care), covering the circumstances in which the *home reversion plan* is portable;
- (3) the effect on the *home reversion plan* of another party moving into the property (for example on marriage or the formation of a civil partnership or where a family member acts as a carer);
- (4) the *reversion provider's* requirements for repair and maintenance of the property, including the *reversion provider's* right (if any) to enter the property to effect essential repairs, and the circumstances in which this may occur;
- (5) a warning that taking out the *home reversion plan* may affect the *customer's* tax and welfare benefits position, that tax and welfare benefits can change and that the *customer* should consider seeking further information from HM Revenue and Customs, Benefits Agency or another source of advice such as a Citizens' Advice Bureau;
- (6) a warning that under a *home reversion plan* the *customer* will cease to own any part of the property sold to the *reversion provider*, and so will neither benefit from any increase in the value of that part nor be able to leave his home to his beneficiaries on his death;
- (7) a warning (where appropriate) that the right to occupy the property will depend on the *customer* fulfilling the terms of the *home reversion plan*;
- (8) that the *illustration* contains a statement about the duration of the *home reversion plan*, and that the *customer* should ensure that the duration will be adequate given the *customer's* circumstances;
- (9) whether the *customer* can, in the future, secure borrowing from any other source on the property (and if applicable a warning that an increasing debt may mean that it may not be possible to borrow more in the future); and
- (10) if the provider is an *unauthorised reversion provider*, a warning that:
 - (a) the provider is not authorised or regulated by the *FCA*, and that key protections under the *regulatory system* will not apply; and
 - (b) the provider is not subject to the jurisdiction of the *Financial Ombudsman Service*, and that the *customer* will not be entitled to refer complaints against the provider to the *Financial Ombudsman Service*.

9.4.146 **G**

9.4.147 **R**

Under the heading "Risks - important things you must consider" the *illustration* must also include the following if they apply:

- (1) for an *instalment reversion plan*, a statement that if the customer dies in the early years of the plan, income payments will cease and therefore the full expected benefits of the plan will not be obtained;
- (2) (a) for an *instalment reversion plan* where there is a regular cash sum payable; and
(b) where:
 - (i) the *home reversion plan* is linked to an *investment*; and
 - (ii) the payments required from the *customer* on the *home reversion plan* will be deducted from the income from the *investment*; and
 - (iii) the *customer* will receive a fixed net income;a statement that inflation can erode the value of the cash sum over time; and
- (3) for all *home reversion plans*, a statement or warning with regard to any material issue not covered elsewhere in this section of the *illustration*.

Section 8 of a home reversion plan illustration: "What you will have to pay and when"

9.4.148 **R**

The heading of the right-hand column of Section 8 of the *illustration* must state the frequency with which payments must be made by the *customer*. (For example, if payments are to be made on a monthly basis, the heading for this section must be "What you will have to pay and when" and the column must be headed "Monthly payments").

9.4.149 **R**

All the payments in Section 8 must be calculated based on the frequency used for the purposes of the heading in the right-hand column of the section and must be shown in that column.

9.4.150 **R**

Section 8 of the *illustration* must contain the following information:

- (1) a statement at the beginning of the section regarding rent and charges using the following text: "A home reversion plan is not a loan. Once you have paid the fees shown in section 9, you will only have to pay the charges shown below.";
- (2) the amount and frequency of annual rent, if any, to be paid by the *customer*; and
- (3) a description and the amount of other periodic charges to be paid by the *customer*.

9.4.151 **R** Where the payment due to the *reversion provider* is to be deducted from the income provided by a linked *investment* product (such as an annuity) such that the *customer* receives the net income, the *firm* must make a clear statement to this effect.

Section 9 of a home reversion plan illustration: "What fees must you pay?"

9.4.152 **R** Under the section heading "What fees must you pay?" the *illustration* must:

- (1) itemise all the fees that the *customer* must pay, excluding any charges for insurance set out in Section 10 of the *illustration*; and
- (2) include a statement regarding taxes and costs using the following text: "You may have to pay other taxes or costs in addition to any fees shown here."

9.4.153 **G** An example of a fee that would not be included would be a fee payable by the *customer* to insure their property elsewhere (however this would need to be stated in the separate "Insurance" section).

9.4.154 **R** The fees included in this section must be itemised under the relevant sub-headings as follows:

- (1) the fees that are payable by the *customer* to the *reversion provider* must be itemised under the sub-heading "Fees payable to [name of *reversion provider*]";
- (2) the remaining fees must be itemised under the sub-heading: "Other fees"; and
- (3) (a) if there are no fees to be itemised in accordance with (1), the sub-heading must be retained and a statement must be included that no fees apply;
(b) if there are no fees to be itemised in accordance with (2), the sub-heading must be retained and only the text in **■ MCOB 9.4.152R (2)** applies.

9.4.155 **R** The following information must be provided for each fee included in this section of the *illustration*:

- (1) a description of the fee;
- (2) the amount payable by the *customer* specified in the column on the right-hand side of the section;
- (3) for fees included under the sub-heading "Other fees", to whom the fee is payable;
- (4) when the fee is payable;
- (5) whether or not the fee is refundable, and if so, the extent to which it is refundable;

- | | | |
|---|----------|---|
| 9.4.156 | R | <p>(6) which fees (if any) are estimated and based on representative information; and</p> <p>(7) if any fee is payable after the start of the <i>home reversion plan</i> and subject to change in the future, the amount of that fee, along with a statement that this is the 'current fee'.</p> |
| 9.4.157 | G | <p>"Other fees" will include any fee charged by a <i>reversion intermediary</i>, or another third party, for <i>advising on or arranging a home reversion plan</i>, but not commission or <i>procuration fees</i> (which are dealt with in Section 12 of the <i>illustration</i>).</p> |
| 9.4.158 | R | <p>A <i>reversion provider</i> must provide a <i>tariff of charges</i> to the <i>customer</i>, if the <i>customer</i> so requests.</p> |
| <p>Section 10 of a home reversion plan illustration: "Insurance"</p> | | |
| 9.4.159 | R | <p>(1) Under the section heading "Insurance" the <i>illustration</i> must include details of:</p> <ul style="list-style-type: none"> (a) insurance which is a <i>tied product</i>; and (b) insurance which is required as a condition of the <i>home reversion plan</i> which is not a <i>tied product</i>. <p>(2) Under this section heading a <i>firm</i> may also provide details of insurance which is optional for the <i>customer</i> to take out.</p> <p>(3) It must be clear to the <i>customer</i> which products he is required to purchase under which circumstances (for example, where both a <i>tied product</i> and a <i>reversion intermediary</i> are involved, whether the policy must be purchased from the <i>reversion provider</i> or the <i>reversion intermediary</i>).</p> |
| 9.4.160 | R | <p>The following information must be included if the <i>home reversion plan</i> requires the <i>customer</i> to take out insurance that is a <i>tied product</i> either through the <i>reversion provider</i> or the <i>reversion intermediary</i>:</p> <ul style="list-style-type: none"> (1) details of which insurance is a <i>tied product</i>; (2) the name of the <i>firm</i> imposing the requirement for the insurance; |

- (3) for how long the *customer* is obliged to purchase the insurance;
 - (4) an accurate quotation or a reasonable estimate of any payments the *customer* needs to make for the insurance;
 - (5) where a quotation is provided for insurance on the basis of an estimated sum insured, because the actual required sum insured is unknown, the fact that it is estimated should be stated along with the level of cover that has been assumed;
 - (6) details of when the *customer's* payments for such insurance change, for example, if premiums are reviewed annually; and
 - (7) where a quotation is not provided, a statement of when and how a quotation will be provided (for example, separately and as soon as possible).
- 9.4.161 **G** A *firm* must provide a *customer* with an accurate quotation for any *tied products* (see ■ MCOB 5.4.23 R). Where the level of cover the *firm* requires the *customer* to take up is known at the outset, then the quotation should reflect that level of cover.
- 9.4.162 **R** If the *home reversion plan* does not require the *customer* to take out insurance as a *tied product*, a statement must be provided under this section that the *customer* is not obliged to take out insurance through the *reversion provider* or the *reversion intermediary*.
- 9.4.163 **R** The following information must be included if the insurance required, as a condition of the *home reversion plan*, is not a *tied product*:
- (1) a brief statement of the type of insurance the *firm* requires; a quotation for such insurance may be included in the *illustration*, estimated where necessary; and
 - (2) if a charge is made if the *customer* does not arrange insurance through the *reversion provider* or the *reversion intermediary*, this must be stated, together with the amount of the charge and the frequency with which this charge is payable.
- 9.4.164 **R** A *firm* may include in the *illustration*, quotations (estimated where necessary) for any insurance products (other than the insurance products covered elsewhere in the *illustration*) that the *firm* issuing the *illustration* wishes to sell to the *customer*.
- 9.4.165 **R**
- (1) If any quotations for insurance are included in the *illustration* it:
 - (a) must include a brief description of the type of insurance;
 - (b) must include the total price to be paid by the *customer* in a column on the right hand side of the *illustration* under the heading "[insert frequency of payments quoted] payments"; and
 - (c) may refer the *customer* to the relevant insurance product disclosure documentation.

- (2) If the *customer* has asked to deduct any insurance premiums or insurance-related charges from the amount released, the *illustration* must state that this is the case.
- 9.4.166** **G** The terms on which an insurance premium has been calculated should be presented to the *customer* in the format determined by the relevant regulatory requirements.
- Section 11 of a home reversion plan illustration: "What happens if you do not want this home reversion plan any more?"**
- 9.4.167** **R** Under the heading "What happens if you do not want this home reversion plan any more?", the *illustration* must set out whether the *customer* can cancel the *home reversion plan* and if so, explain any relevant conditions attached and costs.
- Section 12 of a home reversion plan illustration: "Using a home reversion intermediary"**
- 9.4.168** **R** Where the *illustration* is issued to a *customer* by, or on behalf of, a *reversion intermediary* Section 12 "Using a home reversion intermediary" must be included in the *illustration* and must include the following:
- (1) a clear statement of the amount payable (either directly or indirectly) by the *reversion provider* to the *reversion intermediary*, or to any third parties; and
 - (2) the name of the *reversion provider* who will make the payment, the name of the *reversion intermediary* and the names of any third parties who will be paid.
- 9.4.169** **R** If the amount payable by the *reversion provider* to the *reversion intermediary* and to third parties is £250 or less, the *reversion intermediary* need only state that the amount of the payment is "no more than £250", unless the *customer* requests the actual amount.
- 9.4.170** **R** If the *reversion intermediary* will pass to the *customer* all or part of the amount payable to the *reversion intermediary* by the *reversion provider*, that fact may be stated in this section, along with the amount payable to the *customer*.
- 9.4.171** **R** If the *reversion provider* will make no payment to the *reversion intermediary* or any third party, this section may state that the *reversion intermediary* will receive no payment.
- 9.4.172** **R** The amount disclosed as payable to the *reversion intermediary* or third parties must include, but is not limited to:
- (1) any *procurement fee*; and

(2) a cash value for any material non-cash inducements that the *reversion provider* provides, whether payable directly or indirectly.

9.4.173 G Any material inducements provided by a *reversion provider*, whether directly or indirectly, to a *reversion intermediary* or third party (unless the payment only reflects the cost of outsourcing work relating to the processing of home reversion applications by a *firm* unconnected to the *reversion intermediary*) must be quantified in cash terms (see ■ MCOB 2.3.7 R). This enables the cash values to be included in the *illustration*.

9.4.174 G An example of a statement which would comply with ■ MCOB 9.4.168 R would be: "[name of *reversion provider*] will pay [name of *reversion intermediary*] £[x] in cash and benefits, if you proceed with this home reversion plan."

Contact details

9.4.175 R This section must:

(1) follow Section 11 "What happens if you do not want this home reversion plan any more?", unless the *illustration* is issued by a *reversion intermediary*, in which case it must follow Section 12 "Using a home reversion intermediary"; and

(2) include the name, address and contact point of the *firm* providing the *illustration*.

9.4.176 G An example would be: "If you wish to discuss this home reversion plan illustration, please contact [name of individual] at [address] or call [him/her] on [telephone number]."



9.5 Disclosure at the offer stage for equity release transactions

9.5.1

R

- (1) ■ MCOB 6.1 to ■ MCOB 6.6 (with the modifications stated in ■ MCOB 9.5.2 R to ■ MCOB 9.5.4 R) apply to an *equity release provider* where the *home finance transaction* is an *equity release transaction*, except that those provisions that by their nature are only relevant to *regulated mortgage contracts* do not apply to *home reversion plans* (see ■ MCOB 9.1.2A G).
- (2) The table in ■ MCOB 9.5.2 R shows how the relevant *rules* and *guidance* in ■ MCOB 6 must be modified by replacing the cross-references with the relevant cross-references to *rules* and *guidance* in ■ MCOB 9.4, and ■ MCOB 9.5.
- (3) The table in ■ MCOB 9.5.3 R replaces certain *rules* and *guidance* in ■ MCOB 6 with *rules* and *guidance* from ■ MCOB 9.5.
- (4) The terms and expressions in the *rules* and *guidance* in ■ MCOB 6 that by their nature are only connected to *regulated mortgage contracts* must be replaced with the appropriate equivalent terms and expressions for *home reversion plans* (see ■ MCOB 9.3.1A G).

9.5.2

R

Table of modified cross-references to other rules:

This table belongs to ■ MCOB 9.5.1 R.

Subject	Rule or guidance	Reference in rule or guidance	To be read as a reference to:
Application: What?	MCOB 6.1.5R	MCOB 6	MCOB 6 as modified by MCOB 9.5
Content of offer document	MCOB 6.1.6G	MCOB 5.6	MCOB 9.4
Purpose	MCOB 6.2.1G	MCOB 6	MCOB 6 as modified by MCOB 9.5
General Records	MCOB 6.3.2R MCOB 6.4.3R		
Modifications to the illustration	MCOB 6.4.5G	MCOB 6.4.4R(5)(b)	MCOB 9.5.4R(6)(b)
Modifications to the illustration	MCOB 6.4.6R	MCOB 6.4.4(1)	MCOB 9.5.4R(1)
Modifications to the illustration	MCOB 6.4.6R(1) and (2)	MCOB 5.6	MCOB 9.4

Subject	Rule or guidance	Reference in rule or guidance	To be read as a reference to:
Modifications to the <i>illustration</i>	MCOB 6.4.7R	MCOB 6.4.4R(1)	MCOB 9.5.4R(1)
Modifications to the <i>illustration</i>	MCOB 6.4.7R(2)	MCOB 5	MCOB 9
Modifications to the <i>illustration</i>	MCOB 6.4.7R(3)	MCOB 5.6.73R to MCOB 5.6.83G	MCOB 9.4.72R to MCOB 9.4.82G
Modifications to the <i>illustration</i>	MCOB 6.4.7R(3)	MCOB 5.6.92R to MCOB 5.6.112G	MCOB 9.4.91R to MCOB 9.4.110R
Other information contained in the <i>offer document</i>	MCOB 6.4.13R	MCOB 5.6.122R	MCOB 9.4.126R
<i>Offer documents</i> in place of <i>illustrations</i>	MCOB 6.6.1R	MCOB 5.4 and MCOB 5.5	MCOB 5.4 and MCOB 5.5 as modified by MCOB 9

9.5.3

R

Table of rules in ■ MCOB 6 replaced by rules in ■ MCOB 9:

This table belongs to ■ MCOB 9.5.1 R

Subject	Rule	Rule replaced by
Modifications to the <i>illustration</i>	MCOB 6.4.4R	MCOB 9.5.4R

9.5.4

R

The *illustration* provided as part of the *offer document* in accordance with ■ MCOB 6.4.1 R(1) must meet the requirements of ■ MCOB 9.4, with the following modifications:

- (1) the *illustration* must be suitably adapted and revised to reflect the fact that the *firm* is making an offer to a *customer* and updated to reflect changes to, for example, for a *lifetime mortgage* the interest rate, charges, the exchange rate or the APR required by ■ MCOB 10 (Annual Percentage Rate) at the date the *illustration* is issued;
- (2) the *illustration* must be based on the example term estimated in accordance with ■ MCOB 9.4.10 R;
- (3) ■ MCOB 9.4.2 R(2)(a) does not apply;
- (4) ■ MCOB 9.4.17 R (Information to be included at the head of the illustration) does not apply;
- (5) Section 1: 'About this information' is replaced by the following: 'Section 1: 'About this offer document'. Under the section heading 'About this offer document', the following text must be included:
 - (a) "You are not bound by the terms of this offer document until [insert relevant circumstances, including the names of any documents that must be signed. For example "you have signed the legal charge and the funds are released for your lifetime

mortgage"] or "you have signed the agreement to sell your property to the reversion provider"]. We are required by the Financial Conduct Authority (FCA) - the independent watchdog that regulates financial services - to provide you with this offer document."

- (b) (unless the offer document is being provided in place of an *illustration*) "You should compare this offer document with the key facts illustration given to you before you applied for this [lifetime mortgage] [home reversion plan], to see how the details may have changed."

(6) either:

- (a) The heading for Section 2 is replaced with 'Which service did we provide you with?' and the following text should be presented as two options each with a 'check box', one of which must be marked prominently to indicate the level of service provided to the *customer*: "We have recommended, having assessed your needs, that you take out this [lifetime mortgage] [home reversion plan]." "We have not recommended a particular [lifetime mortgage] [home reversion plan] for you. You must make your own choice whether to accept this [lifetime mortgage] [home reversion] offer."; or

- (b) if the service described in Section 2 of the earlier *illustration* was provided by another *firm*, the heading for Section 2 is replaced by 'Which service were you provided with?' and the following text should be presented as two options each with a 'check box' one of which must be marked prominently to indicate the level of service provided to the *customer*: "[name of firm] recommended that you take out this [lifetime mortgage] [home reversion plan]." "[name of firm] did not recommend a particular [lifetime mortgage] [home reversion plan], for you. You must make your own choice whether to accept this [mortgage] [home reversion] offer.";

(7) the fees recorded in the *illustration* that is part of the *offer document* must include any fees paid or payable by the *customer*;

(8) any requirements to disclose whether a fee is refundable must be read as including fees that have already been paid;

(9) [deleted]

(10) for a *lifetime mortgage*:

- (a) where additional features are included in accordance with ■ [MCOB 9.4.91 R](#) and these are credit facilities that meet the definition of a *regulated credit agreement* regulated by the Consumer Credit Act 1974 and the *Act*, the relevant parts of Section 14 of the *illustration* that is part of the *offer document* must include the following text: "This credit facility is regulated under the Consumer Credit Act 1974 and the Financial Services and Markets Act 2000. Please refer to the separate credit agreement which describes the facility and the terms on which the credit is available.";

- (b) The text required by ■ [MCOB 9.4.102 R \(2\)\(a\)](#) or ■ [MCOB 9.4.102 R \(2\)\(b\)](#) should be adapted to include, or tell the

customer where they can find, the information required by
■ MCOB 6.5.4 R; and

- (c) ■ MCOB 9.4.119 R and ■ MCOB 9.4.120 R apply to the *illustration* that is part of the *offer document* if the *illustration* given out in accordance with ■ MCOB 9 was issued by, or on behalf of, a *mortgage intermediary*.

9.5.5

R

For *home reversion plans*, the *firm* must provide the *customer* with copies of the valuation report for the property and the terms of the *home reversion plan* including the terms on which he will occupy the property, together with the *offer document*.



9.6 Disclosure at the start of the
contract and after sale for equity
release transactions

9.6.1

R

- (1) (a) ■ MCOB 7.1 to ■ MCOB 7.3, ■ MCOB 7.5 and ■ MCOB 7.6 (as modified by this section) apply to a *firm* where the *home finance transaction* is a *lifetime mortgage*.
(b) ■ MCOB 7.1 to ■ MCOB 7.3 (as modified by this section) apply to a *firm* where the *home finance transaction* is a *home reversion plan*, except that those provisions that by their nature are only relevant to *regulated mortgage contracts* do not apply to *home reversion plans* (see ■ MCOB 9.1.2A G).
- (2) The table in ■ MCOB 9.6.2 R shows how the relevant *rules* and *guidance* in ■ MCOB 7 must be modified by replacing the cross-references with the relevant cross-references to *rules* and *guidance* in ■ MCOB 9.4 to ■ MCOB 9.8.
- (3) The table in ■ MCOB 9.6.3 R replaces certain rules and guidance in ■ MCOB 7 with *rules* and *guidance* from ■ MCOB 9.7 and ■ MCOB 9.8.
- (4) The table in ■ MCOB 9.6.4 R disapplies certain *rules* in ■ MCOB 7 for the purposes of ■ MCOB 9.
- (5) The terms and expressions in ■ MCOB 7 that by their nature are only connected to *regulated mortgage contracts* must be replaced with the appropriate equivalent terms and expressions for *home reversion plans* (see ■ MCOB 9.3.1A G).

9.6.2

R

Table of modified cross-references to other rules:

This table belongs to MCOB 9.6.1R.

Subject	Rule or guidance	Reference in rule or guidance	To be read as a reference to:
Application	MCOB 7.1.4R	MCOB 7.6.7R - MCOB 7.7.4R	MCOB 7.6.7R - MCOB 7.6.33G as modified by MCOB 9.8.5R - 9.8.9R
Application	MCOB 7.1.5R	MCOB 7.5 - MCOB 7.7.4R	MCOB 7.5 -MCOB 7.6.33G as modified by MCOB 9.8

Subject	Rule or guidance	Reference in rule or guidance	To be read as a reference to:
Information in more than one document	MCOB 7.3.3R	MCOB 7	MCOB 7 as modified by MCOB 9
Frequency of statements	MCOB 7.5.6G	MCOB 7.5.3R(2)	MCOB 9.8.1R(2)
Annual statement - additional content	MCOB 7.5.9G	MCOB 7.5.3R(2)(b)	MCOB 9.8.1R
Further advances	MCOB 7.6.7R	MCOB 5	MCOB 9.4
Further advances	MCOB 7.6.10G	MCOB 7.6.9R(10)	MCOB 9.8.5R(1)
Further advances	MCOB 7.6.10G	MCOB 5.6.34	MCOB 9.4.114R
Further advances	MCOB 7.6.11G	MCOB 7.6.9R(3) and (4)	MCOB 9.8.5R(3)
Further advances	MCOB 7.6.11G(2)	MCOB 5.6.40R	MCOB 9.4.37R
Further advances	MCOB 7.6.12G	MCOB 7.6.9R(3)	MCOB 9.8.5R(3)
Further advances	MCOB 7.6.13R	MCOB 5.6.25R(2)(a)	MCOB 9.4.24R(4)(a)
Further advances	MCOB 7.6.13R	MCOB 7.6.9R(3)(b)	MCOB 9.8.5R(3)(b)
Further advances	MCOB 7.6.14R	MCOB 5	MCOB 9
Rate switches	MCOB 7.6.20R	MCOB 5	MCOB 9
Rate switches	MCOB 7.6.20R	MCOB 5	MCOB 9
Addition or removal of party to contract	MCOB 7.6.22R	MCOB 5	MCOB 9
Addition or removal of party to contract	MCOB 7.6.25R	MCOB 5	MCOB 9
Changes to payments	MCOB 7.6.29R	MCOB 7.6.28R	MCOB 9.8.9R or MCOB 9.8.10R
Changes to payments	MCOB 7.6.30R	MCOB 7.6.28R	MCOB 9.8.9R or MCOB 9.8.10R
Use of illustrations	MCOB 7.6.31R	MCOB 7.6.28R	MCOB 9.8.9R or MCOB 9.8.10R
Use of illustrations	MCOB 7.6.31R	MCOB 5	MCOB 9
Use of illustrations	MCOB 7.6.32R	MCOB 7.6.28R	MCOB 9.8.9R or MCOB 9.8.10R
Use of illustrations	MCOB 7.6.32R	MCOB 7.6.18R and MCOB 7.6.22R	MCOB 7.6.18R and MCOB 7.6.22R as modified by MCOB 9
Simultaneous requests	MCOB 7.6.33G	MCOB 7.6.18R and MCOB 7.6.22R	MCOB 7.6.18R and MCOB 7.6.22R as modified by MCOB 9
Simultaneous requests	MCOB 7.6.33G	MCOB 5	MCOB 9

9.6.3 **R** Table of rules in MCOB 7 replaced by rules in this chapter:

This table belongs to MCOB 9.6.1R.

Subject	Rule or guidance	Rule replaced by:
Information at start of contract	MCOB 7.4	MCOB 9.7
Content of statement	MCOB 5.3R	MCOB 9.8.1R
Frequency of statements	MCOB 7.5.5R	MCOB 9.8.2R
Event-driven information	MCOB 7.6.1R	MCOB 9.8.3R
Release of additional borrowing	MCOB 7.6.6G	MCOB 9.8.4G
Further advances	MCOB 7.6.9R	MCOB 9.8.5G
Further advances	MCOB 7.6.16R	MCOB 9.8.7R
Addition or removal of party to contract	MCOB 7.6.27R	MCOB 9.8.8R
Changes to payments	MCOB 7.6.28R	MCOB 9.8.9R and MCOB 9.8

9.6.4 **R** Table of rules in MCOB 7 which do not apply in relation to lifetime mortgage:

This table belongs to MCOB 9.6.1R.

Subject	Rule
Annual statements: content	MCOB 7.5.4R
Business loans	MCOB 7.7

9.7 Disclosure at the start of the contract: lifetime mortgages

9.7.1 **G** ■ MCOB 9.7 applies to a *firm* when it enters into a *lifetime mortgage*.

9.7.2 **R** Disclosure requirements where interest payments are required

A *firm* that enters into a *lifetime mortgage* with a *customer* where interest payments are required (whether or not they will be collected by deduction from the income from an annuity or other linked *investment* product) must provide the *customer* with the following information before the *customer* makes the first payment under the contract:

- (1) the amount of the first payment required;
- (2) the amount of the subsequent payments;
- (3) the method by which the payments will be collected (for example, by direct debit or by deduction from a linked *investment* product such as an annuity) and the frequency of such payments and the date of collection of the first and subsequent payments;
- (4) the net amount which the *customer* will receive, where the interest payment is deducted from the income generated by a linked *investment* product such as an annuity, and the method by which this amount will be paid to the *customer*;
- (5) confirmation of whether in connection with the *lifetime mortgage* insurance products such as buildings and contents insurance or payment protection insurance) have been purchased through the *firm*;
- (6) the first premium (and subsequent premiums where different) for insurance products purchased through the *firm* in connection with the *lifetime mortgage*;
- (7) confirmation of whether the insurance premiums are to be collected with the mortgage payment or separately (where the latter applies, the *firm* must give details or state that these will be confirmed separately);
- (8) confirmation that the *lifetime mortgage* is on an interest-only basis, and details of how the *firm* expects the capital to be repaid (for example, from the proceeds of the sale of the property);

- (9) if it is possible for a *payment shortfall* to occur, what to do if the customer has a *payment shortfall*, explaining the benefit of making early contact with the *firm*, providing the name, address and telephone of a contact point with the *firm*, and drawing the *customer's* attention to the *arrears* charges set out in the *tariff of charges*;
- (10) confirmation of any *linked borrowing* and *linked deposits* that are available; and
- (11) whether the *lifetime mortgage* permits the *customer* to make any overpayments or underpayments of the amounts due.

9.7.3 **R** The information in ■ **MCOB 9.7.2 R** must be provided to the *customer* in a single communication, except (5), (6) and (9) which may be provided separately.

Disclosure requirements where the regulated lifetime mortgage contract is a drawdown mortgage with fixed payments to the customer

9.7.4 **R** A *firm* that enters into a *lifetime mortgage* which is a *drawdown mortgage*, with fixed payments to the *customer*, must provide the *customer* with the following information before the first payment is drawn down by the *customer*:

- (1) the amount of the first payment to be made;
- (2) the amount of subsequent payments, if different;
- (3) the method by which the payment will be made (for example, by transfer to the *customer's* bank account) and the date of issue of the first and subsequent payments;
- (4) confirmation of whether in connection with the *lifetime mortgage* insurance products such as buildings and contents insurance or payment protection insurance) have been purchased through the *firm*;
- (5) the first premium (and subsequent premiums where different) for insurance products purchased through the *firm* in connection with the *lifetime mortgage*;
- (6) confirmation of the method and date of collection of the premiums for insurance products purchased through the *firm*;
- (7) details of how the *firm* expects the capital and interest to be repaid (for example from the proceeds of the sale of the property);
- (8) confirmation of any *linked borrowing* and *linked deposits* that are available; and
- (9) whether the *lifetime mortgage* permits the *customer* to make any repayments on the *lifetime mortgage*

- 9.7.5** **R** The information in ■ **MCOB 9.7.4 R** must be provided to the *customer* in a single communication, except (4), (5) and (6) which may be provided separately.
- 9.7.6** **R** Where the *lifetime mortgage* is a *drawdown mortgage* and the *customer* can choose the amount and frequency of the payments they receive, or the amount and frequency of payments can vary for other reasons (for example in line with interest rates) the *firm* must provide the *customer* with the following information before the first payment is drawn down by the *customer*:
- (1) (a) where the *customer* can choose the amount and frequency of the payments they receive, details of any limitations to the amount and frequency of the payments which the *customer* may request; or
 - (b) where the amount and frequency of payments can vary for other reasons (for example in line with interest rates), the amount of the first payment and details of how the amount and frequency of the payments can be varied in future;
 - (2) the method by which the payment will be made (for example, by transfer to the *customer's* bank account);
 - (3) confirmation of whether in connection with the *lifetime mortgage* insurance products such as buildings and contents insurance or payment protection insurance) have been purchased through the *firm*.
 - (4) the first premium (and subsequent premiums where different) for insurance products purchased through the *firm* in connection with the *lifetime mortgage*;
 - (5) confirmation of the method and date of collection of the premiums for insurance products purchased through the *firm*;
 - (6) details of how the *firm* expects the capital and interest to be repaid (for example from the proceeds of the sale of the property);
 - (7) confirmation of any *linked borrowing* and *linked deposits* that are available; and
 - (8) whether the *lifetime mortgage* permits the *customer* to make any repayments on the *lifetime mortgage*.
- 9.7.7** **R** The information in ■ **MCOB 9.7.6 R** must be provided to the *customer* in a single communication, except (3), (4) and (5) which may be provided separately
- Disclosure requirements where a lump sum payment is made to the customer and interest is rolled up**
- 9.7.8** **R** Where the *lifetime mortgage* provides for a lump sum payment to be made to the *customer*, and all or part of the interest will be rolled up during the life of the mortgage, the *firm* must provide the *customer* with the following

information before the *customer* makes the first payment under the contract, or if no payments are required from the *customer*, within seven days of completion of the mortgage:

- (1) if no payments are required from the *customer*, confirmation that no payments are required and details of how the *firm* expects the capital and interest to be repaid (for example from the proceeds of the sale of the property);
- (2) if payments are required from the *customer*:
 - (a) the amount of the first payment required;
 - (b) the amount of the subsequent payments;
 - (c) the method by which the payments will be collected, the frequency of such payments and the date of collection of the first and subsequent payments; and
 - (d) what to do if the *customer* has a *payment shortfall*, explaining the benefit of making early contact with the *firm*, providing the name, address and telephone of a contact point with the *firm*, and drawing the *customer's* attention to the *arrears* charges set out in the *tariff of charges*;
- (3) confirmation of whether in connection with the *lifetime mortgage* insurance products such as buildings and contents insurance or payment protection insurance) have been purchased through the *firm*.
- (4) the amount of the first premium (and subsequent premiums where different) for insurance products purchased through the *firm* in connection with the *lifetime mortgage*;
- (5) confirmation of the method and date of collection of the premiums for insurance products purchased through the *firm* in connection with the *lifetime mortgage*;
- (6) confirmation of any *linked borrowing* and *linked deposits* that are available; and
- (7) whether the *lifetime mortgage* permits the *customer* to make any overpayments or underpayments of the amounts due.

9.7.9

R

The information in ■ **MCOB 9.7.8 R** must be provided to the *customer* in a single communication, except (3) (4) and (5) which may be provided separately

Record keeping requirements

9.7.10

R

- (1) A *firm* must make and retain an adequate record of the information that it provides to each *customer* at the start of the *lifetime mortgage* in accordance with this section.
- (2) The record required by (1) must be maintained for a year from the date that the information is provided to the *customer*.

9.8 Disclosure after sale: lifetime mortgages

Annual statements: content

9.8.1

R

The statement required by ■ MCOB 7.5.1 R must contain the following information:

- (1) except in the case of *mortgage credit cards*, information on the type of *lifetime mortgage*, (for example, fixed rate or variable rate) including a clear statement of how the *firm* expects the capital, or capital and interest (whichever is applicable) to be repaid (for example, from the proceeds of the sale of the property);
- (2) details of the following transactions and information on the *lifetime mortgage* during the period since the last statement (or, where the statement is the first statement, since the *customer* entered into the *lifetime mortgage*):
 - (a) (if applicable) the date and amount of each payment made by the *customer*;
 - (b) (if applicable) the amount of each payment that was due from the *customer* during the statement period;
 - (c) for *drawdown mortgages*, the date and amount of each payment made to the *customer*;
 - (d) the rates(s) of interest applicable to the *lifetime mortgage* during the statement period and, if applicable, the date(s) on which the rate(s) of interest changed;
 - (e) the amount of interest charged under the *lifetime mortgage* during the statement period; and
 - (f) any other amounts charged under the *lifetime mortgage* during the statement period, including fees and any amounts due in relation to *tied products*;
- (3) where it is possible for *arrears* to occur, a reminder that the *customer* should contact the *firm* if they are unable to make their regular payments under the *lifetime mortgage*; and
- (4) information at the date the statement is issued on:
 - (a) the amount owed by the customer under the *lifetime mortgage*;
 - (b) the date at which any *early repayment charges* on the *lifetime mortgage* cease to apply, and the circumstances under which they will not apply;

- (c) where applicable, the *early repayment charge* that applies, expressed as a monetary amount (see ■ MCOB 9.4.83 R);
- (d) the cost of redeeming the *lifetime mortgage* at the date that the statement is issued (this must be shown as the sum of ■ MCOB 9.8.1 R(4)(a) and ■ MCOB 9.8.1 R(4)(c) plus any *linked borrowing* that cannot be retained (including the outstanding balances) plus any other charges that can be quantified at the date the statement is issued). If additional charges are payable that cannot be quantified at the point that the statement is issued (for example if the *customer* is in *arrears*) a warning must be included to that effect; and
- (e) where applicable, the date on which the requirement for the *customer* to purchase any *tied products* from the *firm* comes an end.

- 9.8.2 **R** Where a *firm* provides a *customer* with a statement containing the information set out in ■ MCOB 9.8.1 R(2) more frequently than once a year, the information set out in ■ MCOB 9.8.1 R(1), ■ MCOB 9.8.1 R(3) and ■ MCOB 9.8.1 R(4) may be provided in a separate communication, but must be provided at least once a year.

Event driven information

- 9.8.3 **R** A *firm* must give the *customer* reasonable notice, in advance, of any of the following:
- (1) any changes to the payments that the *customer* is required to make (where payments are required, and whether or not they are collected by deduction from the income provided by a linked *investment* product such as annuity) resulting from interest rate changes;
 - (2) the exercising of the *firm's* right (if allowed by the terms of the *lifetime mortgage*) to enter the property to carry out essential repairs and maintenance (the cost must be confirmed to the *customer* where this will be added to the mortgage debt); and
 - (3) any material change by the *firm* (other than changes which come within ■ MCOB 7.6.2 R or are included in ■ MCOB 9.8.3 R(1) and (2)) to the terms and conditions of the *lifetime mortgage*, where that change is permitted without the *customer's* prior consent.

Notification where additional borrowing taken up

- 9.8.4 **G** Examples of where ■ MCOB 7.6.5 R will apply are the release of tranches of money to the *customer* in relation to a self-build mortgage or other instalment mortgage, but not a *drawdown mortgage*.

Further advances

- 9.8.5 **R** The *illustration* provided in accordance with ■ MCOB 7.6.7 R must;
- (1) be based on the amount of the further advance only;

- (2) use the term 'additional borrowing' in place of the term 'lifetime mortgage' where appropriate throughout the titles and text of the *illustration*;
- (3) include an additional section headed: 'Total borrowing' and numbered '9' after Section 8, (with subsequent sections of the *illustration* renumbered accordingly) including the following text:
 - (a) "This section gives you information about how your lifetime mortgage will be affected by taking out this additional borrowing. Talk to [your mortgage lender] [insert name of mortgage lender] if you are not sure of the details of your current lifetime mortgage.";
 - (b) a clear statement explaining the total amount that the *customer* will owe if they take out the additional borrowing; and,
 - (i) where payments are required on the *lifetime mortgage*, what the *customer's* new payments will be; or
 - (ii) where the *lifetime mortgage* is an *interest roll-up mortgage*, the effect on the amount the *customer* would owe at the end of the estimated term and details of the estimated term that has been used (see ■ MCOB 9.8.6 G for guidance on the estimated term).

9.8.6

G

The estimated term required at ■ MCOB 9.8.5 R(3)(b)(ii) may be:

- (1) the term originally estimated in accordance with ■ MCOB 9.4.10 R; or
- (2) where the term originally estimated in accordance with ■ MCOB 9.4.10 R has expired, a revised estimate in accordance with ■ MCOB 9.4.10 R; or
- (3) a term of the customer's choice, if the customer expresses a preference.

9.8.7

R

■ MCOB 9.4.18 R is replaced with the following: "Section 1: 'About this information' Under the section heading 'About this information', the following text must be included: "We are required by the Financial Conduct Authority (FCA) - the independent watchdog that regulates financial services - to provide you with this illustration. All firms selling lifetime mortgages are required to give illustrations, like this one, that contain similar information presented in the same way."

9.8.8

R

[deleted]

Changes to payments, amounts drawn down and amount owed

9.8.9

R

If a *customer* requests, or agrees to, a change to a *lifetime mortgage* (other than a change as described in ■ MCOB 7.6.7 R to ■ MCOB 7.6.27 R (as modified by MCOB 9)) that changes the amount of each payment due (where payments are required), a *firm* must provide the *customer* with the following information, in a single communication, before the change takes effect:

- (1) the amount outstanding on the *lifetime mortgage* at the date the change is requested;
- (2) the payment due and the frequency of payments; where it is known that the payment will change (for example at the end of a fixed rate period), the new payment and the date of the change must also be shown;
- (3) the rate of interest applying to the *lifetime mortgage*; where it is known that the rate of interest will change, the new rate and the date of the change must also be shown;
- (4) the type of interest rate (for example fixed, or discounted); where it is known that the type of interest rate will change the new type and the date of the change must also be shown;
- (5) details of any charges that apply for changing the *lifetime mortgage*.

9.8.10

R

If a *customer* requests, or agrees to, a change to a *lifetime mortgage* (other than a change as described in ■ MCOB 7.6.7 R to ■ MCOB 7.6.27 R (as modified by MCOB 9)) that changes the amount paid to the *customer* under a *drawdown mortgage*, or the amount that the *customer* will owe under an *interest roll-up mortgage*, or both, a *firm* must provide the *customer* with the following information, in a single communication, before the change takes effect:

- (1) the amount outstanding on the *lifetime mortgage* at the date the change is requested;
- (2) (if applicable) the revised amount to be paid to the *customer* under the *drawdown mortgage* and the frequency of payments;
- (3) (a) an estimate of the revised amount that will be owed at the end of the term; or
(b) (if the original term has expired) a revised estimate;
in accordance with ■ MCOB 9.4.10 R;
- (4) the rate of interest applying to the *lifetime mortgage*; where it is known that the rate of interest will change, the new rate and the date of the change must also be shown;
- (5) the type of interest rate (for example fixed, or discounted); where it is known that the type of interest rate will change the new type and the date of the change must also be shown; and
- (6) details of any charges that apply for changing the *lifetime mortgage*.

9.9 Disclosure after sale: home reversion plans

Provision of statements: instalment reversion plans

9.9.1

R

- (1) In relation to an *instalment reversion plan*, a *firm* must provide the *customer* with a statement at least once a year (or, in relation to the first statement, within the first 13 months of the plan term):
 - (a) covering the *instalment reversion plan* and any *tied product* purchased through the *firm*; and
 - (b) giving information of any other product purchased through the *firm* where the payments for those products are combined with amounts released under the *instalment reversion plan*.
- (2) A *firm* need not provide a statement if it has provided an *offer document* to the *customer* in respect of the *instalment reversion plan* within the previous year.

9.9.2

R

Where a *tied product* is operated separately from the *instalment reversion plan*, for example where the premiums on a tied insurance product are not combined with amounts released under the *instalment reversion plan*, the statement relating to the *tied product* may be provided in a separate communication.

Annual statement for instalment reversion plans: content

9.9.3

R

The statement must contain:

- (1) details of the following transactions during the period since the last statement (or, where it is the first statement, since the *customer* entered into the *instalment reversion plan*):
 - (a) the date and amount of each payment made by the *reversion provider*; and
 - (b) any amounts charged under the *instalment reversion plan* during the statement period, including fees and any amounts due in relation to *tied products*;
- (2) information at the date the statement is issued on:
 - (a) the amount owed by the *reversion provider* to the *customer* under the *instalment reversion plan*;
 - (b) if the amount to be received by the *customer* under the *instalment reversion plan* is linked to the performance of another

		<p>investment, the amount to be received (or estimated amount likely to be received) by the <i>customer</i>;</p> <p>(c) the actual remaining term of the <i>instalment reversion plan</i> (but if the term of the <i>instalment reversion plan</i> is open-ended this should be clearly stated);</p> <p>(d) where applicable, the date on which the requirement for the <i>customer</i> to purchase any <i>tied products</i> from the <i>firm</i> ends; and</p> <p>(e) the proportion of the property that is owned by the <i>reversion provider</i> and <i>reversion occupier</i> respectively.</p>
		<p>Annual statement for instalment reversion plans: additional content if tariff of charges has changed</p>
9.9.4	R	<p>If the <i>tariff of charges</i> has changed since the last annual statement was sent to the <i>customer</i> (or, where it is the first statement, since the <i>customer</i> entered into the <i>instalment reversion plan</i>) and a <i>firm</i> has not already sent a revised <i>tariff of charges</i>, it must include one with the annual statement.</p>
		<p>Event-driven information for instalment reversion plans: material changes</p>
9.9.5	R	<p>A <i>firm</i> must give the customer reasonable notice of any material change by the <i>firm</i> to the terms of the <i>instalment reversion plan</i>, where the change is permitted without the <i>customer's</i> prior consent.</p>
		<p>Responsibilities of reversion providers and administrators: instalment reversion plans</p>
9.9.6	R	<p>The <i>reversion administrator</i> and <i>reversion provider</i> may agree who will be responsible for producing and providing to the <i>customer</i> the statement and information required by this section.</p>
9.9.7	R	<p>The <i>reversion administrator</i> is solely responsible for producing and providing to the <i>customer</i> the information required by this section if the provider is an <i>unauthorised reversion provider</i>.</p>
		<p>Further releases: all home reversion plans</p>
9.9.8	R	<p>If the <i>customer</i> wants to release further equity from the property through a <i>home reversion plan</i>, the <i>firm</i> must treat this transaction as a new <i>home reversion plan</i>, even if the parties to the arrangement are the same.</p>

The illustration: table of contents, prescribed text and prescribed section headings and subheadings

This annex consists only of one or more forms. Forms are to be found through the following address:
The illustration: table of contents, prescribed text and prescribed section headings and subheadings
MCOB 9 Annex 1

The illustration: table of contents, prescribed text and prescribed section headings and sub-headings

This annex forms part of ■ MCOB 9.4.2 R.

This annex consists only of one or more forms. Forms are to be found through the following address:

The illustration: table of contents, prescribed text and prescribed section headings and sub-headings: -
MCOB 9 Annex 2

Chapter 10

Annual Percentage Rate



10.1 Application

10.1.1

R

This chapter applies to a *firm* which, under *rules* elsewhere in *MCOB*, is required to calculate an *annual percentage rate* of charge (*APR*) or is required to use an approach equivalent to that set out in this chapter in calculating a comparative cost measure equivalent to an *APR*.

10.2 Purpose

10.2.1

G

The purpose of this chapter is to establish the requirements for the proper calculation of the *APR*. As a cost measure which facilitates comparisons between similar mortgages offered on a similar basis, the *APR* is an integral element of the *rules* relating to *financial promotions of qualifying credit* and disclosure.

10.3 Formula and assumptions for calculating the APR

Formula for calculating the APR

10.3.1 **R** The *APR* must be calculated so that, subject to **■ MCOB 10.3.1B R (2)**, the *annual percentage rate* of charge is the rate for i which satisfies the equation set out in **■ MCOB 10.3.1A R**, expressed as a percentage.

10.3.1A **R** Formula for calculating the APR

The equation referred to in **■ MCOB 10.3.1A R** is:

$$\sum_{K=1}^{K=m} \frac{A_K}{(1+i)^{t_K}} = \sum_{K'=1}^{K'=m'} \frac{A'_{K'}}{(1+i)^{t_{K'}}}$$

where

K is the number identifying a particular advance of credit;

K' is the number identifying a particular instalment;

A_K is the amount of advance K ;

$A'_{K'}$ is the amount of instalment K' ;

\sum represents the sum of all terms indicated;

m is the number of advances of credit;

m' is the total number of instalments;

t_K is the interval, expressed in years, between the *relevant date* and the date of the second advance and those of any subsequent advances numbers three to m ; and

$t_{K'}$ is the interval, expressed in years, between the *relevant date* and the dates of instalments numbered one to m' .

- 10.3.1B** **R**
- (1) In **■ MCOB 10.3.1A R**, references to instalments are references to any payment made by or on behalf of the *customer* which comprise:
 - (a) a repayment of all or part of the credit under the contract; or
 - (b) a payment of all or part of the *total charge for credit*; or
 - (c) both a repayment of all or part of the credit and a payment of all or part of the *total charge for credit*.
 - (2) Where more than one rate is given under **■ MCOB 10.3.1 R**, the *APR* is the positive rate nearest to zero or, if no positive rate is given, the negative rate nearest to zero.

- 10.3.2** G This calculation method is the same (with the exception of ■ **MCOB 10.3.8 R(1)** and (2)) as that described in ■ **CONC App 1.1**. Some of the terminology is different from that used elsewhere in *MCOB*, e.g. the references to 'transactions' should be read as relating to *secured lending*.

APR calculation: assumptions as to the credit provided

- 10.3.3** R
- (1) The *APR* must be calculated on the basis of the following assumptions:
 - (a) the assumption that the *customer* will not be entitled to any income tax relief relating to the transaction other than relief under sections 266-7 of the Income and Corporation Taxes Act 1988 and Schedule 14-15 to the same Act without any deduction under section 274 of the Income and Corporation Taxes Act 1988;
 - (b) the assumption that no assistance is given under the Home Purchase Assistance and Housing Corporation Guarantee Act 1978;
 - (c)
 - (i) in the case of a transaction which provides for repayment of the credit or of the *total charge for credit* at or not later than a specified time or times, the assumption that the *mortgage lender* or *mortgage administrator* will not exercise any right under the transaction to require repayment at any other time or times; and
 - (ii) in any other case, the assumption that the *mortgage lender* or *mortgage administrator* will not exercise any right under the transaction to require payment; the *customer*, in any case, performing all his obligations under the transaction;
 - (d) unless (e) applies, in the case of a transaction which provides for variation of the rate or amount of any item included in the *total charge for credit* in consequence of the occurrence after the *relevant date* of any event, the assumption that the event will not occur; and, in this sub-paragraph, 'event' means an act or omission of the *customer* or of the *mortgage lender* or *mortgage administrator* or any other event (including, where the transaction makes provision for variation upon the continuation of any circumstance, the continuation of that circumstance) but does not include an event which is certain to occur and of which the date of occurrence, or the earliest date of occurrence, can be ascertained at the date of the making of the agreement; and
 - (e) in the case of a *secured lending* contract which provides for the possibility of any variation of the rate of interest in consequence of the occurrence after the *relevant date* of any event (being an event which is certain to occur and of which the date of occurrence, or the earliest date of occurrence, can be ascertained at the date of the making of the agreement), the assumption that such a variation will, when the event occurs, take place.
 - (2) For the purposes of this chapter:
 - (a) an item included in the *total charge for credit* must not be treated as credit, even if time is allowed for its payment;
 - (b) subject to (c) and to ■ **MCOB 10.3.13 R**, in the case of any agreement, each provision of credit and each repayment of the

- credit and of the *total charge for credit* must be taken to be made:
- (i) at the earliest time provided under the transaction; and
 - (ii) in a case where any such provision or repayment is to be made at or not later than a specified time, at that time; and, where any such repayment is to be made before the *relevant date*, it must be taken to be made on the *relevant date*;
- (c) where, under an agreement for *running-account credit* or an agreement for *fixed-sum credit* where the credit is not repayable at specified intervals or in specified amounts, a constant period rate of charge in respect of periods of equal or of nearly equal length is charged, it must be assumed, despite ■ MCOB 10.3.12 R, that:
- (i) the amount of credit outstanding at the beginning of a period is to remain outstanding throughout the period;
 - (ii) the amount of any credit provided during a period is provided immediately after the end of the period; and
 - (iii) any repayment of credit or of the *total charge for credit* made during a period is made immediately after the end of the period; and
- (d) it must be assumed that the amount of any repayment of credit or of the *total charge for credit* will, at the time when the repayment is made, be the smallest for which the agreement provides.

APR calculation: rounding

10.3.4

R

Where the *APR*, as calculated in accordance with ■ MCOB 10.3.1 R, has more than one decimal place it must be rounded to one decimal place as follows:

- (1) where the figure at the second decimal place is greater than or equal to five, the figure at the first decimal place must be increased by one and the decimal place (or places) following the first decimal place must be disregarded; and
- (2) where the figure at the second decimal place is less than five, that decimal place and any decimal places following it must be disregarded.

APR calculation: the calculation of any period

10.3.5

R

For the purposes of calculations under this chapter, the length of any period must be calculated as follows:

- (1) a period which is not a whole number of calendar months or a whole number of weeks must be counted in years and days;
- (2) subject to (3), a period which is a whole number of calendar months or a whole number of weeks must be counted in calendar months or in weeks, as the case may be;
- (3) where a period is both a whole number of calendar months and a whole number of weeks and:

- (a) one repayment only is to be made, the period must be counted in calendar months,
- (b) more than one repayment is to be made:
 - (i) if all such repayments are to be made at intervals from the relevant date of one or more weeks, the period must be counted in weeks; and
 - (ii) in any other case, the period must be counted in calendar months;
- (4) a period which is to be counted:
 - (a) in calendar months must be taken to be of a length equal to the relevant number of twelfth parts of a year;
 - (b) in weeks, must be taken to be of a length equal to the relevant number of fifty-second parts of a year.
- (5) a day may be taken to be either:
 - (a) one three hundred and sixty-fifth part of a year or, if it is a leap year, one three hundred and sixty-sixth part of a year; or
 - (b) one three hundred and sixty fifth and a quarter part of a year.
- (6) Every day must be taken to be a *business day*

APR calculation: necessary assumptions

10.3.6

R

- (1) ■ MCOB 10.3.7 R to ■ MCOB 10.3.13 R apply for the purpose of the calculation of the *total charge for credit* and of the rate of that charge in respect of matters necessary for the calculation which cannot be ascertained by the *mortgage lender* or *mortgage administrator* at the date of the making of the agreement.
- (2) In a case where ■ MCOB 10.3.7 R and one or more of ■ MCOB 10.3.8 R to ■ MCOB 10.3.13 R are applicable, ■ MCOB 10.3.7 R must be applied first.

APR calculation: assumptions as to the amount of credit

10.3.7

R

- (1) Where the amount of the credit to be provided under the agreement cannot be ascertained at the date of the making of the agreement:
 - (a) in the case of an agreement for *running-account credit* under which there is a credit limit, that amount must be taken to be that credit limit; and
 - (b) in any other case, that amount shall be taken to be £100.
- (2) Where a *mortgage lender* makes a further advance to the *customer* in addition to the amount originally borrowed under the *regulated mortgage contract*, the *APR* for the further advance must be calculated in respect of the further advance alone (and any related charges), and not in respect of the total amount borrowed.

APR calculation: assumptions as to the period for which credit is provided

10.3.8

R

- (1) In relation to a *lifetime mortgage*, where the *APR* is calculated for the purpose of a *financial promotion* it must be assumed that the credit is being provided for a period of 15 years beginning with the *relevant date*.
- (2) In relation to a *lifetime mortgage*, where the *APR* is calculated for the purpose of an *illustration*, the period for which the credit is to be provided must be calculated in accordance with ■ MCOB 9.4.10 R or ■ MCOB 9.4.12 R.
- (2A) In relation to a *retirement interest-only mortgage*, where the *APR* is calculated for the purposes of an *illustration* the period for which the credit is to be provided must be determined in accordance with ■ MCOB 5.6.6R(4).
- (3) Where, in any other case, the period for which credit is to be provided is not ascertainable at the date of the making of the agreement, it must be assumed that credit is provided for one year beginning with the *relevant date*.

APR calculation: assumption where rate or amount is referenced to another factor

10.3.9

R

Subject to ■ MCOB 10.3.10 R, where the rate or amount of any item included in the *total charge for credit*, or the amount of any repayment of credit under a transaction, is to be ascertained by reference to the level of any index or other factor in accordance with a specified formula, the rate or amount must be taken to be the rate or amount so ascertained. The formula must be applied as if the level of the index or other factor subsisting at the date of the making of the agreement were that subsisting at the date by reference to which the formula is to be applied.

APR calculation: assumptions where secured lending contracts provide for the variation in the rate of interest

10.3.10

R

- (1) The assumptions in ■ MCOB 10.3.10 R(3) and (4) apply to any *secured lending* contracts which provide for the possibility of any variation of the rate of interest if it is to be assumed, under ■ MCOB 10.3.3 R(1)(e), that the variation will take place but the amount of the variation cannot be ascertained at the date of the making of the agreement.
- (2) In this paragraph:
 - (a) 'initial standard variable rate' means:
 - (i) the standard variable rate of interest which would be applied by the *mortgage lender* or *mortgage administrator* to the agreement on the date of the making of the agreement if the agreement provided for interest to be paid at the *mortgage lender* or *mortgage administrator's* standard variable rate with effect from that date; or
 - (ii) if there is no such rate, the standard variable rate of interest applied by the *mortgage lender* or *mortgage administrator* on the day of the making of the agreement in question to other *secured lending* contracts or, where there is more than one such rate, the highest such rate;

taking no account of any discount or other reduction to which the *customer* would or might be entitled; and

(b) 'varied rate' means any rate of interest charged when a variation of the rate of interest under ■ MCOB 10.3.3 R(1)(e) is to be assumed.

(3) Where a *secured lending* contract provides a formula for calculating a varied rate by reference to a standard variable rate of interest applied by the *firm*, or any other fluctuating rate of interest, but does not enable the varied rate to be ascertained at the date of the making of the agreement because it is not known on that date what the standard variable rate will be or (as the case may be) at what level the fluctuating rate will be fixed when the varied rate falls to be calculated, it must be assumed that that rate or level will be the same as the initial standard variable rate.

(4) Where a *secured lending* contract provides for the possibility of any variation in the rate of interest (other than a variation referred to in ■ MCOB 10.3.10 R(3)) which it is to be assumed, under ■ MCOB 10.3.3 R(1)(e), will take place, but does not enable the amount of that variation to be ascertained at the date of the making of the agreement, it must be assumed that the varied rate will be the same as the initial standard variable rate.

APR calculation: further assumptions

10.3.11

R

Where:

- (1) the period for which the credit, or any of it, is to be or may be provided cannot be ascertained at the date of the making of the agreement; and
- (2) the rate or amount of any item included in the *total charge for credit* will change at a time provided in the transaction within one year beginning with the *relevant date*;

the rate or amount must be taken to be the highest rate or amount under the transaction at any time in that year.

10.3.12

R

Where the earliest date on which credit is to be provided cannot be ascertained at the date of making of the agreement, it must be assumed that credit is provided on that date.

10.3.13

R

In the case of any transaction, it must be assumed:

- (1) that a charge payable at a time which cannot be ascertained at the date of the making of the agreement is to be payable on the *relevant date* or, where it may reasonably be expected that a *customer* will not make payment on that date, on the earliest date at which it may reasonably be expected that he will make payment; or
- (2) where more than one payment of a charge of the same description is to be made at times which cannot be ascertained at the date of the making of the agreement, that the first such payment will be payable on the *relevant date* (or, where it may reasonably be expected that a *customer* will not make payment on that date, at the earliest date on which it may reasonably be expected that he will make payment),

that the last such payment will be payable at the end of the period for which credit is provided and that all other such payments (if any) will be payable at equal intervals between those times.

10.4 Total charge for credit

Make up of the total charge for credit

- 10.4.1 **R** For the purposes of this chapter, the *total charge for credit* which may be provided under an actual or prospective agreement is the total (determined as at the date of the making of the agreement) of the charges specified in ■ MCOB 10.4.2 R which apply in relation to the agreement, but excluding the charges specified in ■ MCOB 10.4.4 R.

Items included in the total charge for credit

- 10.4.2 **R** The amounts of the following charges are included in the *total charge for credit* in relation to an agreement, with the exceptions in ■ MCOB 10.4.4 R:
- (1) the total of the interest on the credit which may be provided under the agreement;
 - (2) other charges at any time payable under the transaction by or on behalf of the *customer*, whether to the *firm* or any other person; and
 - (3) a premium under a contract of insurance, payable under the transaction by the *customer*, where the making or maintenance of the contract of insurance is required by the *firm*:
 - (a) as a condition of making the agreement; and
 - (b) for the sole purpose of ensuring complete or partial repayment of the credit, and complete or partial payment to the *firm* of such of those charges included in the *total charge for credit* as are payable to him under the transaction, in the event of the death, invalidity, illness or unemployment of the *customer*;

notwithstanding that the whole or part of the charge may be repayable at any time or that the consideration therefore may include matters not within the transaction or subsisting at a time not within the duration of the agreement.

- 10.4.3 **G** (1) ■ MCOB 10.4.2 R means, for example, that the following charges must be included within the *total charge for credit*:
- (a) any fee payable to a *mortgage intermediary* for arranging the contract (see ■ MCOB 10.4.2 R(2)); and
 - (b) any *higher lending charge*.

- (2) The *FCA* takes the view that charges required to be included within the *total charge for credit* should not be excluded on the basis of these charges being refundable in certain circumstances.
- (3) The *FCA* also takes the view that the *total charge for credit* and *APR* should not reflect the 'value' of any cashback or similar incentive linked to the contract.

Exclusions from the total charge for credit

10.4.4

R

- (1) The amounts of the following items are not included in the *total charge for credit* in relation to an agreement:
 - (a) any charge payable under the transaction to the *firm* upon failure by the *customer* to do or to refrain from doing anything which he is required to do or to refrain from doing;
 - (b) any charge:
 - (i) which is payable by the *firm* to any person upon failure by the *customer* to do or to refrain from doing anything which he is required under the transaction to do or to refrain from doing; and
 - (ii) which the *firm* may under the transaction require the *customer* to pay to him or to another person on his behalf;
 - (c) any charge relating to a regulated *restricted-use credit agreement* to finance a transaction between the *customer* and the *firm* (whether forming part of that agreement or not), or to finance a transaction between the *customer* and a person (the "supplier") other than the *firm* which would be payable if the transaction were for cash;
 - (d) any charge (other than a *fee* or commission charged by a credit-broker or *mortgage intermediary*) not within ■ MCOB 10.4.4 R(1)(c):
 - (i) of a description which relates to services or benefits incidental to the agreement and also to other services or benefits which may be supplied to the *customer*; and
 - (ii) which is payable to fulfil an obligation incurred by the *customer* under arrangements which were effected before he applied to enter into the agreement and are not arrangements under which the *customer* is bound to enter into any personal credit agreement;
 - (e) any charge under arrangements for the care, maintenance or protection of any land or goods (except as in ■ MCOB 10.4.4 R(2));
 - (f) charges for money transmission services relating to an arrangement for a current account under which the *customer* may, by cheques or similar orders payable to himself or to any other person, obtain or have the use of money held or made available by the *firm* and which records alterations in the financial relationship between the *firm* and *customer*, being charges which vary with the use made by the *customer* of the arrangement;
 - (g) any charge for a guarantee other than a guarantee:
 - (i) which is required by the *firm* as a condition of making the agreement; and

- (ii) the purpose of which is to ensure complete or partial repayment of the credit, and complete or partial payment to the *firm* of such of those charges included in the *total charge for credit* as are payable to him under the transaction, in the event of death, invalidity, illness or unemployment of the *customer*;
 - (h) charges for the transfer of funds (other than charges within ■ MCOB 10.4.4 R(1)(f)) and charges for keeping an account intended to receive payments towards the repayment of the credit and the payment of interest and other charges, except where the *customer* does not have reasonable freedom of choice in the matter and where such charges are abnormally high; this does not exclude from the *total charge for credit* charges for collection of the payments to which it refers, whether such payments are made in cash or otherwise; and
 - (i) a premium under a contract of insurance other than a contract of insurance referred to in ■ MCOB 10.4.2 R(3).
- (2) In the case of a charge within ■ MCOB 10.4.4 R(1)(e), (1) has effect only:
- (a) where under the arrangement:
 - (i) the services are to be performed if, after the date of the making of the agreement, the condition of the land or goods becomes or is in immediate danger of becoming such that the land or goods cannot reasonably be enjoyed or used; and
 - (ii) the charge will not accrue unless the services are performed; or
 - (b) where:
 - (i) provision of substantially the same description as that to which the arrangements relate is available under comparable arrangements from a person who is not the *firm* or a supplier or a credit-broker or a *mortgage intermediary* who introduced the *customer* and the *firm*;
 - (ii) the arrangements are made with a person chosen by the *customer*; and
 - (iii) (if, in accordance with the transaction, the consent of the *firm* or of a supplier or of the *mortgage intermediary* or credit-broker who introduced the *customer* and the *firm* is required to the making of the agreement), where the transaction provides that such consent may not be unreasonably withheld whether because no incidental benefit will or may accrue to the *firm* or to the supplier or to the credit-broker or to the *mortgage intermediary* or on any other ground.
- (3) References in ■ MCOB 10.4.4 R (2) to the *firm*, a supplier, a *mortgage intermediary* and a credit-broker include references to his near relative, his partner and a member of a group of which he is a member, to any person nominated by him or any such person in relation to the arrangements, and to a near relative of his partner; and 'near relative' means, in relation to any person, the husband, wife, civil partner, father, mother, brother, sister, son or daughter of that person and 'group' means the person (including a company)

having control of a company together with all the companies directly or indirectly controlled by him.

Chapter 10A

MCD Annual Percentage Rate of Charge

10A.1 Calculation of the APRC

- 10A.1.1** **R** The *APRC* must be calculated for an *MCD regulated mortgage contract* in accordance with the mathematical formula in ■ MCOB 10A.2.2 R.
[Note: article 17(1) of the *MCD*]
- 10A.1.2** **R** Whenever the opening or maintaining of an account is obligatory to obtain the *credit*, or to obtain it on the terms and conditions marketed, the *total cost of credit to the consumer* must include the following costs:
- (1) opening and maintaining a specific account;
 - (2) using a means of payment for both transactions and drawdowns on that account;
 - (3) other costs relating to payment transactions;
- [Note: article 17(2) of the *MCD*]
- 10A.1.3** **R** The calculation of the *APRC* must be based on the assumption that the *MCD regulated mortgage contract* is to remain valid for the period agreed and that the *MCD mortgage lender* and the *consumer* will fulfil their obligations under the terms and by the dates specified in the *MCD regulated mortgage contract*.
[Note: article 17(3) of the *MCD*]
- 10A.1.4** **R** If an *MCD regulated mortgage contract* allows variations in the:
- (1) *borrowing rate*; or
 - (2) charges contained in the *APRC*;
- and they are unquantifiable at the time the *APRC* is calculated, the *APRC* must be calculated on the assumption that the *borrowing rate* and other charges will remain fixed in relation to the level set when the contract is entered into.
[Note: article 17(4) of the *MCD*]
- 10A.1.5** **R** If an *MCD regulated mortgage contract* contains a fixed *borrowing rate* in relation to the initial period of at least five years, at the end of which a negotiation on the *borrowing rate* must take place to agree on a new fixed

rate for a further material period, the calculation of the additional, illustrative *APRC* disclosed in the *ESIS* must:

- (1) cover only the initial fixed-rate period; and
- (2) be based on the assumption that, at the end of the fixed *borrowing rate* period, the capital outstanding is repaid.

[**Note:** article 17(5) of the *MCD*]

10A.1.6 **R** If an *MCD regulated mortgage contract*:

- (1) allows for variations in the *borrowing rate*; and
- (2) it does not fall within **■ MCOB 10A.1.5 R**,

the *ESIS* must contain an additional *APRC* which illustrates the possible risks linked to a significant increase in the *borrowing rate*. Where the *borrowing rate* is not capped, this information must be accompanied by a warning highlighting that the *total cost of the credit to the consumer*, shown by the *APRC*, may change.

[**Note:** article 17(6) of the *MCD*]

10A.1.7 **R** The assumptions in **■ MCOB 10A.2** and, where applicable, in **■ MCOB 10A.3** must be used and applied in calculating the *APRC*.

[**Note:** article 17(7) of the *MCD*]

10A.2 APRC: mathematical formula and assumptions

10A.2.1 **G** The mathematical formula for calculating the *APRC* in **MCOB 10A.2.2 R** is a basic equation for establishing the *APRC*. This equates, on an annual basis, the total present value of drawdowns on the one hand and the total present value of repayments and payments of charges on the other.

[Note: Annex I, Part I of the *MCD*]

10A.2.2 **R** The equation referred to in **MCOB 10A.2.1 G** is:

$$\sum_{k=1}^m C_k (1+X)^{-t_k} = \sum_{l=1}^{m'} D_l (1+X)^{-s_l}$$

where:

- X is the *APRC*
- m is the number of the last drawdown
- k is the number of a drawdown, thus $1 \leq k \leq m$
- C_k is the amount of drawdown k
- t_k is the interval, expressed in years and fractions of a year, between the date of the first drawdown and the date of each subsequent drawdown, thus $t_1 = 0$
- m' is the number of the last repayment or payment of charges
- l is the number of a repayment or payment of charges
- D_l is the amount of a repayment or payment of charges
- s_l is the interval, expressed in years and fractions of a year, between the date of the first drawdown and the date of each repayment or payment of charges.

[Note: Annex I, Part I of the *MCD*]

10A.2.3 **R** The following matters must be applied when calculating the *APRC*.

- (1) The amounts paid by both parties at different times must not necessarily be equal and must not necessarily be paid at equal intervals.
- (2) The starting date must be that of the first drawdown.
- (3) (a) Intervals between dates used in the calculations must be expressed in years or in fractions of a year. A year is presumed to have 365 days (or 366 days for leap years), 52 weeks or 12 equal months. An equal month is presumed to have 30.41666 days (ie, $365/12$), regardless of whether or not it is a leap year.
- (b) Where intervals between dates used in the calculations cannot be expressed as a whole number of weeks, months or years, the intervals must be expressed as a whole number of one of those periods in combination with a number of days. Where using days:

- (i) every day must be counted, including weekends and holidays;
 - (ii) equal periods and then days must be counted backwards to the date of the initial drawdown;
 - (iii) the length of the period of days must be obtained excluding the first day and including the last day and must be expressed in years by dividing this period by the number of days (365 or 366 days) of the complete year counted backwards from the last day to the same day of the previous year.
- (4) The result of the calculation must be expressed with an accuracy of at least one decimal place. If the figure at the following decimal place is greater than or equal to 5, the figure at the preceding decimal place must be increased by one.
- (5) The equation can be rewritten using a single sum and the concept of flows (A_k), which will be positive or negative, in other words either paid or received during periods 1 to n , expressed in years, using the following formula:

$$s = \sum_{k=1}^n A_k (1 + X)^{-t_k}$$

where s is the present balance of flows. If the aim is to maintain the equivalence of flows, the value of s will be zero.

[Note: Annex I, Part I of the MCD]

10A.3 APRC: additional assumptions

10A.3.1 R

- (1) If an *MCD regulated mortgage contract* gives the consumer **freedom of drawdown**, the *total amount of credit* must be deemed to be drawn down immediately and in full.
- (2) If an *MCD regulated mortgage contract* **provides different ways of drawdown with different charges or borrowing rates**, the *total amount of credit* must be deemed to be drawn down at the highest charge and *borrowing rate* applied to the most common drawdown mechanism for that type of *MCD regulated mortgage contract*.
- (3) If an *MCD regulated mortgage contract* **gives the consumer freedom of drawdown in general but imposes, amongst the different ways of drawdown, a limitation with regard to the amount of credit and period of time**, the amount of *credit* must be deemed to be drawn down on the earliest date provided for in the *MCD regulated mortgage contract* and in accordance with those drawdown limits.
- (4) If **different borrowing rates and charges are offered for a limited period or amount**, the highest *borrowing rate* and charges must be deemed to be the *borrowing rate* and charges for the whole duration of the *MCD regulated mortgage contract*.
- (5) For an *MCD regulated mortgage contract* for which a fixed *borrowing rate* is agreed in relation to the initial period, at the end of which a new *borrowing rate* is determined and subsequently periodically adjusted according to an agreed indicator or internal reference rate the calculation of the APRC must be based on the assumption that, at the end of the fixed *borrowing rate* period, the *borrowing rate* is the same as at the time of calculation of the APRC, based on the value of the agreed indicator or internal reference rate at that time, but is not less than the fixed *borrowing rate*.
- (6) If the ceiling applicable to the *credit* has not yet been agreed, that ceiling must be assumed to be EUR 170,000. In the case of an *MCD regulated mortgage contract* (other than an *MCD contingent liability or guarantee*) the purpose of which is not to acquire or retain a right in immovable property or land, an *overdraft facility*, a deferred debit card or a credit card, this ceiling must be assumed to be EUR 1,500.
- (7) In the case of an *MCD regulated mortgage contract* that does not fall within ■ MCOB 10A.3.1R (9), ■ (10), ■ (11) or ■ (12):
 - (a) if the date or amount of a repayment of capital to be made by the *customer* cannot be ascertained, it must be assumed that the repayment is made at the earliest date provided for in the credit

agreement, and is for the lowest amount for which the *MCD regulated mortgage contract* provides;

- (b) if the interval between the date of initial drawdown and the date of the first payment to be made by the *consumer* cannot be ascertained, it must be assumed to be the shortest interval.

(8) Where the date or amount of a payment to be made by the consumer cannot be ascertained on the basis of the *MCD regulated mortgage contract* or the assumptions set out at ■ **MCOB 10A.3.1R (7)**, ■ **(9)**, ■ **(10)**, ■ **(11)** or ■ **(12)**, it must be assumed that the payment is made in accordance with the dates and conditions required by the *MCD mortgage lender* and, when these are unknown:

- (a) interest charges are paid together with the repayments of the capital;
- (b) non-interest charges expressed as a single sum are paid at the date of entering into the *MCD regulated mortgage contract*;
- (c) non-interest charges expressed as several payments are paid at regular intervals, commencing with the date of the first repayment of capital and, if the amount of such payment is not known, they must be assumed to be equal amounts;
- (d) the final payment clears the balance of capital, interest and other charges, if any.

[Note: Annex I, Part II of the *MCD*]

(9) In the case of an *MCD regulated mortgage contract* that is an overdraft facility, the *total amount of credit* must be deemed to be drawn down in full and for the whole duration of the *MCD regulated mortgage contract*. If the duration of the *overdraft facility* is not known, the *APRC* must be calculated on the assumption that the duration of the *credit* is three months.

(10) In the case of an open-ended *MCD regulated mortgage contract*, other than an overdraft facility and an *MCD exempt bridging loan*: it must be assumed that:

- (a) the *credit* is provided for a period of time starting from the date of the initial drawdown, and the final payment made by the *consumer* clears the balance of capital, interest and other charges, if any, where that period of time is:
 - (i) 20 years for an *MCD regulated mortgage contract*, the purpose of which is to acquire or retain rights in immovable property;
 - (ii) 1 year for an *MCD regulated mortgage contract* the purpose of which is not to acquire or retain rights in immovable property or which is drawn down by a deferred debit card or a credit card.
- (b) the capital is repaid by the *consumer* in equal monthly payments, commencing one month after the date of the initial drawdown. However, in cases where the capital must be repaid only in full, in a single payment, within each payment period, successive drawdowns and repayments of the entire capital by the *consumer* must be assumed to occur over the period of one year. Interest and other charges must be applied in accordance with those

drawdowns and repayments of capital and as provided for in the *MCD regulated mortgage contract*.

For the purposes of this rule, an open-ended *MCD regulated mortgage contract* is an *MCD regulated mortgage contract* without fixed duration and includes credits which must be repaid in full within or after a period but, once repaid, become available to be drawn down again.

(11) In the case of an *MCD contingent liability or guarantee*, the total amount of credit must be deemed to be drawn down in full as a single amount at the earlier of:

- (a) the latest drawdown date permitted under the *MCD regulated mortgage contract* being the potential source of the *MCD contingent liability or guarantee*; or
- (b) for a rolling *MCD regulated mortgage contract*, at the end of the initial period prior to the rollover of the agreement.

(12) In the case of a *shared equity credit agreement*:

- (a) the payments by a *consumer* must be deemed to occur at the latest date or dates permitted under the *shared equity credit agreement*;
- (b) percentage increases in value of the immovable property which secures the *shared equity credit agreement*, and the rate of any inflation index referred to in the agreement, must be assumed to be:
 - (i) a percentage equal to the higher of:
 - (aa) the current central bank target inflation rate; or
 - (bb) the level of inflation in the state where the immovable property is located at the time that the *MCD regulated mortgage contract* is entered into; or
 - (ii) 0% if those percentages are negative.

[Note: Annex I, Part II of the *MCD*]

10A.3.2 G [deleted]

10A.3.3 R In relation to a *retirement interest-only mortgage* where the *firm* chooses to provide an *ESIS* instead of an *illustration*, the period for which the credit is to be provided must be determined in accordance with ■ MCOB 5.6.6R(4).

Chapter 11

Responsible lending, and responsible financing of home purchase plans

11.4Application

Who?

This chapter applies to a *firm* in a category listed in column (1) of the table in ■ MCOB 11.4.2 R in accordance with column (2) of that table.

This table belongs to ■ MCOB 11.4.1 R

(1) Category of firm	(2) Applicable section
<i>mortgage lender</i>	Whole chapter
<i>home purchase provider</i>	Whole chapter except MCOB 11.6.1G (2), MCOB 11.6.5R (3) and (4), MCOB 11.6.18 R, MCOB 11.6.19 G, MCOB 11.6.20R (2) and MCOB 11.6.20R (9), MCOB 11.6.40 G to MCOB 11.6.59 G, MCOB 11.6.60R (2)(e), (3) and (4), MCOB 11.7.3R and MCOB 11.9.
<i>mortgage administrator</i>	MCOB 11.9.2R and MCOB 11.9.14R.

What?

This chapter applies:

(1) if a *firm* enters into a regulated mortgage contract or home purchase plan with a customer; or

(2) if a *firm* varies an existing regulated mortgage contract or home purchase plan; and

throughout the term of any regulated mortgage contract or home purchase plan which a *firm* has entered into.

11.5 Purpose

11.5.1

G

- (1) This chapter requires a *firm* to treat *customers* fairly by assessing, before deciding to:
 - (a) *enter into a regulated mortgage contract or home purchase plan*;
or
 - (b) *vary a regulated mortgage contract or home purchase plan*;
whether the *customer* will be able to repay the sums borrowed and interest (in the case of a *regulated mortgage contract*) or pay the sums due (in the case of a *home purchase plan*).
- (2) This chapter aims to ensure that *customers* are not exploited by *firms* that provide finance in circumstances where the *customers* are self-evidently unable to repay (or pay) through income and have no alternative means of repayment (or payment).
- (3) This chapter sets out some limited exceptions to the requirement to assess the *customer's* ability to repay (or pay), including transitional arrangements in relation to *customers* with existing *regulated mortgage contracts or home purchase plans* which satisfy certain conditions.
- (4) This chapter also applies in relation to extending the term of a *bridging loan*.

11.6 Responsible lending and financing

Contents of this section

11.6.1

G

- (1) This section sets out *rules* and *guidance* for lenders and providers under *regulated mortgage contracts* and *home purchase plans*, in relation to the assessment of affordability for the *customer* of these contracts. *Firms* have the option of applying certain of the *rules* and *guidance* on a modified basis in relation to *regulated mortgage contracts* and *home purchase plans* which are solely for a business purpose or are with *high net worth mortgage customers*. This section also contains (at ■ MCOB 11.6.41 R to ■ MCOB 11.6.52 G) additional *rules*, with accompanying *guidance*, in relation to *regulated mortgage contracts* which are *interest-only mortgages*. These *rules*:
 - (a) restrict the circumstances in which *interest-only mortgages* may be entered into, and impose additional requirements on *mortgage lenders* in those limited cases where they are permitted; and
 - (b) provide for an exception to the requirement to assess affordability in relation to those *interest-only mortgages* which are *interest roll-up mortgages*, and restrict the circumstances in which *interest roll-up mortgages* may be used (see ■ MCOB 11.6.57 R to ■ MCOB 11.6.59 G).
- (2) This section also contains (at ■ MCOB 11.6.53 E to ■ MCOB 11.6.54 G) special provisions for *mortgage lenders* in relation to *bridging loans*, including some which apply only where the *bridging loan* is an *interest-only mortgage*.

The assessment of affordability

11.6.2

R

- (1) Except as provided in ■ MCOB 11.6.3 R, ■ MCOB 11.6.57 R (Interest roll-up mortgages) and ■ MCOB 11.7 (Transitional arrangements):
 - (a) before *entering into*, or agreeing to vary, a *regulated mortgage contract* or *home purchase plan*, a *firm* must assess whether the *customer* (and any guarantor of the *customer's* obligations under the *regulated mortgage contract* or *home purchase plan*) will be able to pay the sums due; and

[Note: article 18(1) of the MCD]

- (b) the *firm* must not enter into the transaction in (a) unless it can demonstrate that the new or varied *regulated mortgage contract* or *home purchase plan* is affordable for the *customer* (and any guarantor).

[Note: article 18(5)(a) of the *MCD*]

- (2) In ■ MCOB 11.6, references to payment of sums due means:
- (a) in the case of a *regulated mortgage contract*, the making of the payments to repay the sums advanced and interest reasonably expected to be accrued under the *regulated mortgage contract*; and

[Note: article 18(6) of the *MCD*]

- (b) in the case of a *home purchase plan*, the payment of sums due under the *home purchase plan*;

in each case as they fall due.

- (3) In ■ MCOB 11.6, references to the *customer* must be read as referring also to any guarantor of the *customer's* obligations under the *regulated mortgage contract*, where the context permits.

11.6.3

R

- (1) ■ MCOB 11.6.2 R does not apply to:

- (a) entering into a new *regulated mortgage contract* or *home purchase plan* as a replacement for an existing *regulated mortgage contract* or *home purchase plan* between the *customer* and the *firm* (either as the original *mortgage lender* or *home purchase provider* or as the transferee of the existing contract), whether or not the new contract relates to the same property;
- (aa) entering into a new *regulated mortgage contract* as a replacement for an existing *regulated mortgage contract*, whether or not the new contract relates to the same property, where the original *mortgage lender* (or, where the existing contract has been transferred, the transferee):
 - (i) is not entering into *regulated mortgage contracts* with new *customers*; and
 - (ii) is in the same *group* as the *mortgage lender* under the new contract; or
- (b) a variation of an existing *regulated mortgage contract* or *home purchase plan*;

provided the conditions in (2) are satisfied.

- (2) The conditions referred to in (1) are that:

- (a) the proposed new or varied *regulated mortgage contract* or *home purchase plan* would not involve the *customer* taking on additional borrowing or (for a *home purchase plan*, increasing the amount of finance provided under the plan) beyond the amount currently outstanding under the existing *regulated mortgage contract* or *home purchase plan*, other than to finance any product fee or arrangement fee for the proposed new or varied contract; and

[Note: article 18(6) of the *MCD*]

- (b) there is no change to the terms of the *regulated mortgage contract* or *home purchase plan* which is likely to be material to affordability.

11.6.4

E

- (3) ■ MCOB 11.6.2 R does not apply to a variation to the terms of a *regulated mortgage contract* or *home purchase plan* which:
 - (a) reduces (including to zero) the capital repayments required under a *repayment mortgage* for a period of no longer than six *months*;
 - (b) reverses (in full or in part) a term extension within six *months* of it taking effect; or
 - (c) is made solely for the purposes of forbearance where the *customer* has a *payment shortfall*, or in order to avoid a *payment shortfall*.
- (4) Paragraph (3)(a) only applies where the contract:
 - (a) remains a *repayment mortgage* after the variation (because the mortgage is still designed to be repaid in full over its term);
 - (b) has not previously been varied in reliance on that paragraph; and
 - (c) is not a *bridging loan* or a *second charge regulated mortgage contract*.
- (5) Paragraph (3)(b) only applies where the contract:
 - (a) has not previously been varied in reliance on that paragraph; and
 - (b) is not a *bridging loan* or a *second charge regulated mortgage contract*.

11.6.5

R

When assessing for the purposes of ■ MCOB 11.6.2 R whether a *customer* will be able to pay the sums due, a *firm*:

- (1) must not base its assessment of affordability on the equity in the property which is used as security under the *regulated mortgage contract* or is subject to the *home purchase plan*, or take account of an expected increase in property prices;

[Note: article 18(3) of the *MCD*]

- (2) must take full account of:
 - (a) the income of the *customer*, net of income tax and national insurance; and, as a minimum

- (b) (i) the *customer's* committed expenditure; and
- (ii) the basic essential expenditure and basic quality-of-living costs of the *customer's* household;

[Note: article 20(1) of the *MCD*]

- (3) (if it is a *mortgage lender*) must assess affordability on the basis of both repayment of capital and payment of interest over the term, except where lending under an *interest-only mortgage* in accordance with ■ MCOB 11.6.41R (1); and
- (4) (if it is a *mortgage lender*) must take account of the impact of likely future interest rate increases on affordability, as set out in ■ MCOB 11.6.18 R.

[Note: article 18(1) of the *MCD*]

11.6.6 R For the purposes of ■ MCOB 11.6.2 R, a *firm* must not rely on a general declaration of affordability by the *customer* or his representative.

Income multiples

11.6.7 G A *firm* may wish to impose a limit, expressed as a multiple of the *customer's* income, on the amount it is prepared to advance under a *regulated mortgage contract* or *home purchase plan*. Such an approach is not, of itself, inconsistent with ■ MCOB 11.6.2 R but, in accordance with the *rules* in this section, the *firm* must be able to demonstrate that the loan is affordable, having taken full account of the *customer's* income and expenditure, and (for a *mortgage lender*) the impact of future likely interest rate increases on affordability.

Income

11.6.8 R In taking account of the *customer's* income (in accordance with ■ MCOB 11.6.5R (2)(a)) for the purposes of its assessment of whether the *customer* will be able to pay the sums due:

- (1) a *firm* must obtain evidence of the income declared by the *customer* for the purposes of the *customer's* application for the *regulated mortgage contract* or *home purchase plan* (or variation). The evidence, whether document-based or derived through the use of automated systems, must be of a type and for a period which is adequate to support each element of income that the *firm* is taking into account, and subject to appropriate anti-fraud controls; and
- (2) a *firm* must not accept self-certification of income by the *customer*, and the source of the evidence in (1) must be independent of the *customer*.

11.6.9 G In relation to taking account of the *customer's* income for the purposes of its assessment of whether the *customer* will be able to pay the sums due:

- (1) income may be derived from sources other than employment (such as pensions or investments), or from more than one job;

- (2) the evidence necessary to comply with ■ MCOB 11.6.8 R will vary according to factors such as the employment status and the nature of the employment of the *customer* (for example, whether he is employed, self-employed, a contractor or retired), his length of employment and, in particular, any elements of income that are not contractually guaranteed. For example: income from overtime working may be evidenced by payslips over a period of time or by checking the level of income regularly paid into a bank account;
- (3) for a self-employed *customer*, a *firm* may wish to consider using projections of future income, where these form part of a credible business plan;
- (4) a *firm* may use information it already holds about a *customer's* income, for example where the *customer* holds a current account with the *mortgage lender*;
- (5) the source of evidence may be independent of the *customer* even where it is supplied by the *customer*; for example, in the form of payslips, bank statements or tax returns;
- (6) a *firm* may use information provided to it by a *home finance intermediary* or other third party, including electronic sources of information, but the *firm* will retain responsibility for compliance with this chapter; and
- (7) *mortgage lenders* and *home purchase providers* are reminded of their obligations under ■ SYSC 8 in respect of outsourcing where they choose to use a third party to verify income information.

Expenditure

11.6.10

R

For the purposes of a *mortgage lender's* or *home purchase provider's* assessment of whether the *customer* will be able to pay the sums due:

- (1) the committed expenditure of a *customer* in ■ MCOB 11.6.5R (2)(b)(i) is his credit and other contractual commitments which will continue after the *regulated mortgage contract* or *home purchase plan* (or variation) is entered into;
- (2) the basic essential expenditure of a *customer's* household in ■ MCOB 11.6.5R (2)(b)(ii) comprises expenditure for: housekeeping (food and washing); gas, electricity and other heating; water; telephone; council tax; buildings insurance; ground rent and service charge for leasehold properties; and essential travel (including to work or school); and
- (3) the basic quality-of-living costs of a *customer's* household in ■ MCOB 11.6.5R (2)(b)(ii) are its expenditure which is hard to reduce and gives a basic quality of life (beyond the absolute essential expenditure in (2)).

11.6.11

G

- (1) Examples of committed expenditure are: credit commitments such as secured and unsecured loans and credit cards; hire purchase agreements; child maintenance; alimony; and the cost of a *repayment strategy* where the *customer* has an *interest-only mortgage* (where

affordability has not been assessed on a capital and interest basis: see ■ MCOB 11.6.48 R (Assessing affordability under an *interest-only mortgage*)).

- (2) Examples of basic quality-of-living costs (which can be reduced, but only with difficulty) are: clothing; household goods (such as furniture and appliances) and repairs; personal goods (such as toiletries); basic recreation (television, some allowance for basic recreational activities, some non-essential transport); and childcare.

11.6.12 R For the purposes of its assessment of whether the *customer* will be able to pay the sums due:

- (1) a *firm* may generally rely on any evidence of income or information on expenditure provided by the *customer* unless, taking a common sense view, it has reason to doubt the evidence or information;
- (2) in taking account of the *customer's* committed expenditure, a *firm* must take reasonable steps to obtain details of the *customer's* actual outstanding commitments; and
- (3) in taking account of the basic essential expenditure and basic quality-of-living costs of a *customer's* household, a *firm* may obtain details of the actual expenditure. Alternatively, it may use statistical data or other modelled data appropriate to the composition of the *customer's* household, including the *customer*, dependent children and other dependents living in the household. If it uses statistical or other modelled data a *firm* must apply realistic assumptions to determine the level of expenditure of the *customer's* household.

11.6.13 G (1) Examples of evidence of income in ■ MCOB 11.6.12R (1) are payslips and bank statements.

(2) If a *firm* obtains details of the *customer's* credit commitments from the *customer*, it should corroborate the information, for example by making a credit reference agency search or checking credit card or bank statements.

(3) Where the *customer's* credit or contractual commitments are due to end shortly after the *regulated mortgage contract* or *home purchase plan* (or variation) has been entered into, a *firm* should take a common sense approach to deciding whether to include those commitments in its assessment of whether the *customer* will be able to pay the sums due, according to such factors as the remaining term of the commitment and the magnitude of payments required under it.

Future changes to income and expenditure

11.6.14 R If a *firm* is, or should reasonably be aware from information obtained during the application process, that there will, or are likely to, be future changes to the income and expenditure of the *customer* during the term of the *regulated mortgage contract* or *home purchase plan*, the *firm* must take them into account when assessing whether the *customer* will be able to pay the sums due for the purposes of ■ MCOB 11.6.2 R.

11.6.15

G

- (1) Examples of future changes to income and expenditure in ■ **MCOB 11.6.14 R** are: reductions in income that may come about following the *customer's* retirement; where it is known that the *customer* is being made redundant; or where the *firm* is aware of another loan commitment that will become due during the term of the *regulated mortgage contract* or *home purchase plan*, such as an equity loan to assist in property purchase.
- (2) If the term of a *regulated mortgage contract* or *home purchase plan* would extend beyond the date on which the *customer* expects to retire (or, where that date is not known, the state pension age), a *firm* should take a prudent and proportionate approach to assessing the *customer's* income beyond that date. The degree of scrutiny to be adopted may vary according to the period of time remaining to retirement when the assessment is made. The closer the *customer* is to retiring, the more robust the evidence of the level of income in retirement should be. For example, where retirement is many years in the future, it may be sufficient merely to confirm the existence of some pension provision for the *customer* by requesting evidence such as a pension statement; where the *customer* is close to retirement, the more robust steps may involve considering expected pension income from a pension statement. In accordance with ■ **MCOB 11.6.12R (1)**, a *firm* should take a common sense view when assessing any information provided by the *customer* on his expected retirement date.
- (3) Where an additional loan commitment is expected to become due during the term of the *regulated mortgage contract* or *home purchase plan*, the *mortgage lender* should assess whether the *regulated mortgage contract* or *home purchase plan* will remain affordable when the loan commitment becomes due, unless there is an appropriate *repayment strategy* in place to repay that loan, such as through the sale of the property which is the subject of the *regulated mortgage contract* or *home purchase plan*.
- (4) When assessing the affordability of a *retirement interest-only mortgage* with joint borrowers, the *firm* should consider the ability of a single borrower to continue making the required payments if the other dies, taking into account relevant evidence such as pensions payable to the surviving spouse or civil partner.

Debt consolidation and credit-impaired consumers

11.6.16

R

- (1) This *rule* applies where:
 - (a) a purpose of a *regulated mortgage contract* or *home purchase plan* (or variation) is debt consolidation; and
 - (b) for a *first charge regulated mortgage contract*, the *customer* is a *credit-impaired customer*.
- (2) Subject to (3), where each of the conditions in (1) is satisfied and, if the debts which are to be repaid using the sums raised by the *regulated mortgage contract* or *home purchase plan* (or variation) were not repaid, the transaction would not be affordable for the *customer*, the *firm* must take reasonable steps to ensure that, on completion of the transaction, those debts are actually repaid.

- (3) The requirement in (2) does not apply if the *firm* has assumed that the *customer's* existing debts which are to be repaid using the sums raised by the *regulated mortgage contract* or *home purchase plan* (or variation) will not in fact be repaid and, accordingly, include them as committed expenditure in the affordability assessment for the *customer*.

- 11.6.17** G The requirement in ■ **MCOB 11.6.16R (2)** for reasonable steps may be satisfied by the *mortgage lender's*, or *home purchase provider's*, repaying the committed expenditure directly to the creditors concerned as a condition of granting the *regulated mortgage contract* or *home purchase plan*.

Considering the effect of future interest rate rises

- 11.6.18** R
- (1) Under ■ **MCOB 11.6.5R (4)**, in taking account of likely future interest rate increases for the purposes of its assessment of whether the *customer* will be able to pay the sums due, a *mortgage lender* must consider the likely future interest rates over a minimum period of five years from the expected start of the term of the *regulated mortgage contract* (or variation), unless the interest rate under the *regulated mortgage contract* is fixed for a period of five years or more from that time, or for the duration of the *regulated mortgage contract* (or variation), if less than five years.
- (2) In coming to a view as to likely future interest rates, a *mortgage lender* must have regard to:
- (a) market expectations; and
 - (b) any prevailing *Financial Policy Committee* recommendation on appropriate interest-rate stress tests;
- and must be able to justify the basis it uses by reference to (a) and (b).
- (3) For the purposes of this *rule*, even if the basis used by the *mortgage lender* in (2) indicates that interest rates are likely to fall, or to rise by less than 1%, during the first five years of the *regulated mortgage contract* (or variation), a *mortgage lender* must assume that interest rates will rise by a minimum of 1% over that period.

- 11.6.18A** R
- (1) Under ■ **MCOB 11.6.5R (4)**, in taking account of likely future interest rate increases for the purposes of its assessment of whether the *customer* will be able to pay the sums due, a *second charge lender* must also consider the likely future interest rates of any *regulated mortgage contract* in existence at the time of the assessment and remaining in existence after the relevant *second charge regulated mortgage contract* has been entered into.
- (2) The *second charge lender* must, at a minimum, base its assessment under (1) on the balance outstanding of any *regulated mortgage contract* relevant under (1).

11.6.19

G

In relation to ■ MCOB 11.6.18R (2):

- (1) an example of market expectations is the forward sterling rate published on the Bank of England website. A *mortgage lender* should not use its own forecast; and
- (2) a *mortgage lender* should not link its determination to market expectations without considering the likely effect of rate changes in accordance with the market expectations on the specific *regulated mortgage contract* in question.

Responsible lending or financing policy

11.6.20

R

A *firm* must put in place, and operate in accordance with, a written policy (which may be contained in more than one document), approved by its *governing body*, setting out the factors it will take into account in assessing a *customer's* ability to pay the sums due. The policy must address the following matters:

- (1) how income and expenditure is to be assessed, including (except as provided in ■ MCOB 11.6.32R (1) and ■ MCOB 11.6.39R (1)):
 - (a) details of the types of income which are acceptable;
 - (b) the proportion of different income streams which is acceptable;
 - (c) how variations in income over time, of which the *firm* is aware, are to be considered;
 - (d) what is acceptable evidence of income (including the time period to be covered by the evidence); and
 - (e) how committed expenditure, basic essential expenditure and basic quality-of-living costs are taken into account when assessing affordability;
- (2) how future interest rates are taken into account when assessing affordability;
- (3) the calculations used to determine whether the *regulated mortgage contract* or *home purchase plan* is affordable;
- (4) how the *mortgage lender's* or *home purchase provider's* anti-fraud controls are incorporated into affordability assessments;
- (5) how the *mortgage lender's* or *home purchase provider's* method of calculating the size of the advance for each *customer*, based on a consideration of the *customer's* income and expenditure, is to be monitored, including the timing of reviews and key performance indicators to be used (see ■ MCOB 11.6.22 R (Monitoring));
- (6) the actions to be taken if the *mortgage lender's* or *home purchase provider's* calculation method, referred to in (5), does not perform as expected;
- (7) how regular audits of compliance with the *mortgage lender's* or *home purchase provider's* responsible lending or financing policy established in accordance with this *rule* are to be undertaken (as required by ■ MCOB 11.6.24 R);

- (8) how the record keeping requirements in ■ MCOB 11.6.60 R are to be met;
- (9) (if applicable) the matters required by ■ MCOB 11.6.50 R (Interest-only policy); and
- (10) (if applicable) how the *firm* will apply the *rules* in ■ MCOB 11.7 (Transitional arrangements) so as to permit exceptions to its procedures for affordability assessments, to include arrangements for use of management information to monitor its application of those exceptions.

[Note: article 18(2) of the *MCD*]

11.6.21 G Examples of different income streams in ■ MCOB 11.6.20R (1)(b) are: income derived from sources other than employment; income from more than one job; and elements of income that are not contractually guaranteed.

11.6.21A R An *MCD mortgage lender* must keep a record of the valuation and types of immovable property accepted as a security, as well as the related mortgage underwriting policies used.

[Note: article 19(2) and second sentence of article 26(1) of the *MCD*]

11.6.21B G When considering the period for which the records kept under ■ MCOB 11.6.21A R are to be retained, *MCD mortgage lenders* are reminded of the high-level record-keeping provisions in *SYSC*.

Monitoring

11.6.22 R A *firm* must put in place, and be able to demonstrate that it has, robust systems and controls (including the use of management information and key performance indicators) to monitor the effectiveness of its affordability assessments, including in preventing payment difficulties.

11.6.23 G Except as provided in ■ MCOB 11.6.32R (2) and ■ MCOB 11.6.39R (2), the monitoring in ■ MCOB 11.6.22 R should:

- (1) include use of management information, key performance indicators and root cause analysis to review and (where appropriate) adjust and improve the *mortgage lender's* or *home purchase provider's* method of calculating the size of the advance for each *customer*, based on a consideration of the *customer's* income and expenditure; and
- (2) take place on a regular basis. However, a *firm* should put in place key performance indicators that trigger more frequent reviews; for example, if the incidence of *customers* being in *arrears*, or of early *arrears*, is higher than expected.

11.6.24 R A *firm* must ensure that its compliance with the responsible lending or financing policy required by ■ MCOB 11.6.20 R is reviewed at least once per calendar year:

- (1) in any case where the *firm* has an internal audit function or outsourced equivalent, by that function; and
- (2) in any other case, by the *firm's* internal compliance function or an outsourced equivalent.

Alternative provisions for loans which are solely for a business purpose

11.6.25 **R** Where a *regulated mortgage contract* is solely for a business purpose, a *firm* may opt to apply ■ MCOB 11.6.26 R to ■ MCOB 11.6.31 R in place of ■ MCOB 11.6.5 R to ■ MCOB 11.6.19 G.

11.6.26 **R** When assessing for the purposes of ■ MCOB 11.6.2 R whether a *customer* will be able to pay the sums due, a *firm*:

- (1) must not base its assessment of affordability on the equity in the property which is used as security under the *regulated mortgage contract*, or take account of an expected increase in property prices;
- (2) must:
 - (a) where the repayments will be made from the resources of the *customer*:
 - (i) take full account of the income, net of income tax and national insurance, or net assets (or both) of the *customer*; and the *customer's* committed expenditure; and
 - (ii) take account, in general terms as a minimum, of the basic essential expenditure and basic quality-of-living costs of the *customer's* household; and
 - (b) where the repayments will be made from the financial resources of the business, take full account of the strength of those resources;
- (3) in a case falling within (2)(b), if the *customer* is relying on the business for his personal income, must as a minimum consider in general terms whether the business can support the *customer's* basic essential expenditure and basic quality-of-living costs;
- (4) must assess affordability on the basis of both repayment of capital and payment of interest over the term, except where lending under an *interest-only mortgage* in accordance with ■ MCOB 11.6.41R (1); and
- (5) must take account of the impact of likely future interest rate increases on affordability.

11.6.27 **R** For the purposes of ■ MCOB 11.6.2 R, a *firm* must not rely on a general declaration of affordability by the *customer* or his representative.

11.6.28 **R** In taking account (in accordance with ■ MCOB 11.6.26R (2)) of the *customer's* income or net assets (or both) and the resources of the business for the purposes of its assessment of whether the *customer* will be able to pay the sums due:

- (1) a *firm* must obtain evidence of the income or net assets (or both) of the *customer* and the resources of the business, as declared by the *customer* for the purpose of the *customer's* application for the *regulated mortgage contract* (or variation); and
- (2) a *firm* must not accept self-certification of income by the *customer*, and the source of the evidence in (1) must be independent of the *customer*.
- 11.6.29** **R** In ■ MCOB 11.6.26 R, for the purposes of taking full account of committed expenditure and taking account in general terms of basic essential expenditure and basic quality-of-living costs, the meaning of those phrases is as set out in ■ MCOB 11.6.10 R.
- 11.6.30** **G** The information which a *firm* should consider when taking account, for the purposes of ■ MCOB 11.6.26R (2)(b), of the strength of the financial resources of the business will vary according to the characteristics of the business, but may include factors such as the cash flow, assets and liabilities of the business.
- 11.6.31** **R** If a *firm* is, or should reasonably be aware from information obtained during the application process, that there will, or are likely to, be future changes to the income and expenditure of the *customer*, or the resources of the business, during the term of the *regulated mortgage contract*, the *firm* must take them into account when assessing whether the *customer* will be able to pay the sums due for the purposes of ■ MCOB 11.6.2 R.
- 11.6.32** **R** Where a *firm* chooses, in accordance with ■ MCOB 11.6.25 R, to apply the provisions of ■ MCOB 11.6.26 R to ■ MCOB 11.6.31 R in place of ■ MCOB 11.6.5 R to ■ MCOB 11.6.19 G:
- (1) its policy in ■ MCOB 11.6.20R (1) need not address each of the matters prescribed in sub-paragraphs (a) to (e) of that *rule*;
- (2) ■ MCOB 11.6.23 G does not apply; and
- (3) in each case the record-keeping requirements in ■ MCOB 11.6.60R (2)(a) to ■ (d) apply only to the extent relevant, but the record in ■ MCOB 11.6.60R (1) must also include, to the extent relevant:
- (a) the *customer's* assets and the evidence relied on to assess them; and
- (b) the details considered in relation to the resources of the business.
- Alternative provisions for loans with high net worth mortgage customers**
- 11.6.33** **R** Where a *regulated mortgage contract* is for a *high net worth mortgage customer*, a *firm* may opt to apply ■ MCOB 11.6.34 R to ■ MCOB 11.6.38 R in place of ■ MCOB 11.6.5 R to ■ MCOB 11.6.19 G.

- 11.6.34** **R** When assessing for the purposes of **■ MCOB 11.6.2 R** whether a *customer* will be able to pay the sums due, a *firm*:
- (1) must not base its assessment of affordability on the equity in the property which is used as security under the *regulated mortgage contract*, or take account of an expected increase in property prices;
- [Note: article 18(3) of the *MCD*]
- (2) must:
 - (a) take full account of the income, net of income tax and national insurance, or net assets (or both) of the *customer*; and the *customer's* committed expenditure; and
 - (b) take account, in general terms as a minimum, of the basic essential expenditure and basic quality-of-living costs of the *customer's* household;
- [Note: article 20(1) of the *MCD*]
- (3) must assess affordability on the basis of both repayment of capital and payment of interest over the term, except where lending under an *interest-only mortgage* in accordance with **■ MCOB 11.6.41R (1)**; and
 - (4) must take account of the impact of likely future interest rate increases on affordability.
- 11.6.35** **R** For the purposes of **■ MCOB 11.6.2 R**, a *firm* must not rely on a general declaration of affordability by the *customer* or his representative.
- 11.6.36** **R** In taking account of the *customer's* income or net assets (or both) (in accordance with **■ MCOB 11.6.34R (2)(a)**) for the purposes of its assessment of whether the *customer* will be able to pay the sums due:
- (1) a *firm* must obtain evidence of the income or net assets (or both) declared by the *customer* for the purpose of the *customer's* application for the *regulated mortgage contract* (or variation); and
 - (2) a *firm* must not accept self-certification of income by the *customer*, and the source of the evidence in (1) must be independent of the *customer*.
- 11.6.37** **R** In **■ MCOB 11.6.34 R**, for the purposes of taking full account of committed expenditure and taking account in general terms of basic essential expenditure and basic quality-of-living costs, the meaning of those phrases is as set out in **■ MCOB 11.6.10 R**.
- 11.6.38** **R** If a *firm* is, or should reasonably be, aware from information obtained during the application process, that there will, or are likely to, be future changes to the income and expenditure of the *customer* during the term of the *regulated mortgage contract*, the *firm* must take them into account when assessing whether the *customer* will be able to pay the sums due for the purposes of **■ MCOB 11.6.2 R**.

- 11.6.39** **R** Where a *firm* chooses, in accordance with ■ MCOB 11.6.33 R, to apply the provisions of ■ MCOB 11.6.34 R to ■ MCOB 11.6.38 R in place of ■ MCOB 11.6.5 R to ■ MCOB 11.6.19 G:
- (1) its policy in ■ MCOB 11.6.20R (1) need not address each of the matters prescribed in sub-paragraphs (a) to (e) of that *rule*;
 - (2) ■ MCOB 11.6.23 G does not apply; and
 - (3) in each case the record-keeping requirements in ■ MCOB 11.6.60R (2)(a) to ■ MCOB 11.6.60R (2)(d) apply only to the extent relevant, but the record in ■ MCOB 11.6.60R (1) must also include, to the extent relevant, the *customer's* assets and the evidence relied on to assess them.

Interest-only mortgages

- 11.6.40** **G** The rules in this part (■ MCOB 11.6.41 R to ■ MCOB 11.6.49 R) provide that *interest-only mortgages* may be *entered into* by *mortgage lenders* in limited circumstances.

- 11.6.40A** **G** A *shared equity credit agreement* may be an *interest-only mortgage*.

Entering into interest-only mortgages

- 11.6.41** **R**
- (1) A *mortgage lender* may only *enter into* an *interest-only mortgage*, or switch a *repayment mortgage* onto an *interest-only* basis for all or part of its term, if:
 - (a) it has evidence that the *customer* will have in place a clearly understood and credible *repayment strategy*; and
 - (b) as far as it is reasonably able to assess at that time, the *repayment strategy* has the potential to repay the capital borrowed and any interest reasonably expected to be accrued under the *interest-only mortgage*.
 - (2) In ■ MCOB 11.6, a reference to an *interest-only mortgage* is to be read as including any *regulated mortgage contract* which includes an *interest-only* period or where part of the sum is advanced on an *interest-only* basis.
 - (3) A *mortgage lender* must not accept *speculative repayment strategies* for the purposes of (1).
 - (4) Paragraph (1) does not apply in respect of a variation to the terms of a *regulated mortgage contract* made in accordance with ■ MCOB 11.6.3R(3)(a).

- 11.6.42** **G** *Firms* are reminded that:
- (1) *interest-only mortgages* include those where some, but not all, interest is payable at the end of the term. Accordingly, the requirement in ■ MCOB 11.6.41R (1)(b) applies equally to such *interest-only mortgages* as it does to those where all of the interest is accrued until the end of the term; and

- (2) a *lifetime mortgage* is a type of *interest-only mortgage*, as full repayment of capital and interest is not required over the term. Accordingly, the requirements in the *Handbook* (including in ■ MCOB 11.6 and ■ MCOB 11.7) which apply to *interest-only mortgages* apply to *lifetime mortgages*, unless specifically disapplied. Depending always on its terms, a *lifetime mortgage* may also be an *interest roll-up mortgage*, as noted in ■ MCOB 11.6.59 G.
- 11.6.43** R ■ MCOB 11.6.41R (1) does not prevent a *mortgage lender*, when appropriate, from making a temporary concession, by which he accepts payment of interest only, with a *customer* who is in *arrears* or has a *payment shortfall*, or is at risk of *arrears* or a *payment shortfall*, on a *regulated mortgage contract*.
- 11.6.44** G *Firms* are reminded that whether it is appropriate to take the action contemplated by ■ MCOB 11.6.43 R will depend on all the circumstances of the particular case and must be considered having regard to, among other things, *Principle 6* and the *rules* in ■ MCOB 13.
- 11.6.45** G The following are examples of *repayment strategies* that may, subject to the circumstances of the *customer*, be acceptable for the purposes of ■ MCOB 11.6.41R (1):
- (1) regular deposits into a savings or investment product;
 - (2) the periodic repayment of capital from irregular sources of income (such as bonuses or some sources of income from self-employment);
 - (3) the sale of assets such as another property or other land owned by the *customer*; and
 - (4) for a *shared equity credit agreement* or a *retirement interest-only mortgage*, the sale of the property which is the subject of the agreement.
- 11.6.46** E Acceptance by a *mortgage lender* of any of the following *repayment strategies* for the purposes of ■ MCOB 11.6.41R (1) may be relied upon as tending to show contravention of that *rule*:
- (1) an expectation that the value of the property which is the subject of the *regulated mortgage contract* will increase over its term sufficiently to enable the *customer* to sell the property to repay the capital borrowed and, where applicable, pay the interest accrued under the *interest-only mortgage*;
 - (2) an intention on the part of the *customer* to utilise an expected, but uncertain, inheritance to repay the capital borrowed and, where applicable, pay the interest accrued under the *interest-only mortgage*; and
 - (3) the sale of the property which is the subject of the *regulated mortgage contract*, where that is the *customer's* main residence and the *mortgage lender* does not consider whether the property will have the potential to:

- (a) provide sufficient funds for the *customer* to repay the capital borrowed and, where applicable, the interest accrued under the *interest-only mortgage*; and
- (b) allow the *customer* to purchase a cheaper property to reside in or execute any other associated strategy.

The above list is not exhaustive.

11.6.46A R ■ MCOB 11.6.46E(3)(b) does not apply in relation to a *retirement interest-only mortgage*.

11.6.47 G In complying with ■ MCOB 11.6.41R (1), where a *customer's repayment strategy* is the sale of the property which is the subject of the *regulated mortgage contract*, a *mortgage lender* may wish to consider, as part of its assessment of that *repayment strategy*, factors such as the equity in the property when considered in relation to the level of property prices in the relevant area at the time of the consideration or, for a *lifetime mortgage*, the borrower's life expectancy.

Assessing affordability under an interest-only mortgage

11.6.48 R For the purposes of ■ MCOB 11.6.2 R, where a *mortgage lender* is lending under an *interest-only mortgage* in accordance with ■ MCOB 11.6.41R (1), it may assess affordability on the basis of payment of interest only over the term (plus repayment of such capital as may be due to be repaid over the term). If it does so, it must consider as part of the *customer's* committed expenditure under ■ MCOB 11.6.5R (2)(b)(i) (or the equivalent alternative provision for transactions with *high net worth mortgage customers* or solely for business purposes) the cost to the *customer* of the *repayment strategy* (unless the mortgage is a *retirement interest-only mortgage*).

Review during the term of interest-only mortgages

- 11.6.49** R
- (1) This *rule* applies in relation to all *interest-only mortgages* which a *mortgage lender* enters into on or after 26 April 2014 except:
 - (a) *lifetime mortgages*;
 - (aa) *retirement interest-only mortgages*;
 - (b) *bridging loans*; and
 - (c) any other case where the repayment of capital borrowed and, if applicable, interest accrued, is certain.
 - (2) Except as set out in (3), a *mortgage lender* must carry out a review (as a minimum, once) during the term of the mortgage, in which contact is made with the *customer*, to check that the *customer's repayment strategy* is still in place, and that it is still reasonable to expect that the *repayment strategy* has the potential to repay the capital borrowed and, where applicable, pay the interest reasonably expected to be accrued under the *interest-only mortgage*. The review must be carried out at a stage of the term when, if the *repayment strategy* is not in place, or not adequate, there is likely to be sufficient time prior to the end of the term for the *customer* to take appropriate steps to remedy the situation.

- (3) The review in (2) is not required in any case where, despite reasonable efforts to contact the *customer*, the *mortgage lender* has been unable to do so.
- (4) Following the review in (1), where appropriate the *mortgage lender* must take reasonable steps to discuss with the *customer* what may be done to address the situation.

Interest-only policy

11.6.50

R

A *mortgage lender* which enters into *interest-only mortgages* (unless they are only *lifetime mortgages*) must include in the policy which is required by ■ MCOB 11.6.20 R (Responsible lending and financing policy) a policy on *interest-only mortgages*, setting out its processes and procedures for ensuring compliance with ■ MCOB 11.6.41R (1) and for safeguarding the interests of *customers* during the term of *interest-only mortgages*. This policy must include:

- (1) details of the *mortgage lender's* plans for lending by way of *interest-only mortgages*, including its planned volumes of lending on that basis over a specified period, and provision for reviewing the actual volumes of lending on that basis, including the timing and method of review;
- (2) specification of the types of *repayment strategy* which will be considered acceptable, and the evidential requirements and other controls which will be applied to ensure that only such types will be accepted, including the controls to be applied where the *repayment strategy* is the sale of the property which is the subject of the *regulated mortgage contract*;
- (3) the procedures for checking the existence and adequacy of the *repayment strategy* in line with the policy, including questions to be asked of the *customer*;
- (4) the arrangements for monitoring and auditing compliance with the policy, processes and procedures (see ■ MCOB 11.6.22 R and ■ MCOB 11.6.24 R (Monitoring)); and
- (5) the process for the review required by ■ MCOB 11.6.49 R which, as a minimum:
 - (a) prescribes the timing of the review;
 - (b) prescribes the content of the review, including the questions to be asked of the *customer* and the actions to be taken if the *customer* proves difficult to contact or otherwise does not co-operate with the review;
 - (c) sets out how it is to be decided whether the *customer's repayment strategy* meets the criteria in ■ MCOB 11.6.49R (2); and
 - (d) sets out the actions which will be appropriate to be considered during the discussions in ■ MCOB 11.6.49R (2), depending on the circumstances of the *customer*.

11.6.51

G

- (1) The controls in ■ MCOB 11.6.50R (2) may include, where appropriate: maximum loan to value limits; minimum equity requirements;

regional factors such as property prices; or other eligibility requirements.

- (2) The policy and procedures for safeguarding the interests of a *customer* under an *interest-only mortgage* should not permit the *mortgage lender* to change the *interest-only mortgage* to a *repayment mortgage*, extend the term or otherwise change the features of the *interest-only mortgage* unless to do so is compatible with the duties of the *mortgage lender* under *Principle 6* and any other applicable *rules* and regulations, including those relating to *arrears* or *payment shortfall*. A *mortgage lender* should also have regard to the *CRA* when drafting the provisions of *regulated mortgage contracts* in relation to changes to their features.

- 11.6.52 G ■ MCOB 11.6.50 R sets out requirements for *mortgage lenders* to have appropriate procedures for managing *interest-only mortgages* in order to safeguard the interests of *customers*. *Firms* are reminded of the *rules* and *guidance* in SYSC (notably ■ SYSC 7.1) relating to systems and controls for the management of risks to which *firms* themselves are exposed. *Firms* will need to consider whether their systems and controls are adequate in relation to the management of risks arising from *interest-only mortgages*.

Assessing the customer's repayment strategy for bridging loans

- 11.6.53 E For a *bridging loan* which is an *interest-only mortgage*, acceptance by a *mortgage lender* as a *repayment strategy* for the purposes of ■ MCOB 11.6.41R (1) of an expectation that, by entering into the *bridging loan*, the *customer's* credit status will be sufficiently improved to enable him to refinance to a longer-term *regulated mortgage contract* (except where the *mortgage lender* has evidence of a guaranteed offer for such a longer-term contract) may be relied upon as tending to show contravention of that rule.

- 11.6.54 G For a *bridging loan* which is an *interest-only mortgage*, in complying with ■ MCOB 11.6.41R (1):
- (1) where the *customer's repayment strategy* is the sale of his existing home, the *mortgage lender* may wish to consider asking for it to be supported by an independent valuation of that property, as a condition of accepting that *repayment strategy*; and
 - (2) where the *customer's repayment strategy* is the replacement of the *bridging loan* with a mainstream *regulated mortgage contract*, the *mortgage lender* should not accept that *repayment strategy* unless it is reasonably satisfied that a mainstream *mortgage lender* will be willing to enter into a *regulated mortgage contract* with the *customer*. A *firm* may wish to consider requesting evidence of a guaranteed offer or agreement in principle that will be in place once the existing term of the *bridging loan* has expired, or obtain the necessary income and expenditure information, in order to be so satisfied.

Extending the term of a bridging loan

- 11.6.55** **R** Except in relation to a secured overdraft which is solely for a business purpose or is with a *high net worth mortgage customer*:
- (1) when considering extending the term of a *bridging loan*, a *mortgage lender* must comply with **MCOB 11.6.2 R** as if the *bridging loan* were a new loan;
 - (2) where **MCOB 11.6.2 R** does not apply in relation to extending the term of a *bridging loan* (because the *bridging loan* is an *interest roll-up mortgage*, and therefore **MCOB 11.6.57 R** applies), the *mortgage lender* must consider with the *customer*, before he commits himself to extend the term, the impact of the extension on the *customer's* remaining equity in the property which is the subject of the *bridging loan*; and
 - (3) a *firm* must not agree to extend the term of a *bridging loan* unless the *customer* has made a positive choice to do so.

- 11.6.56** **G** *Firms* are reminded that, when extending the term of a *bridging loan* to which **MCOB 11.6.55 R** does not apply, in accordance with **MCOB 2.5A.1 R**, they must act honestly, fairly and professionally in accordance with the best interests of their *customer*.

Interest roll-up mortgages

- 11.6.57** **R** The requirements in **MCOB 11.6.2 R** (and any *Handbook* provisions applicable only to that *rule*) do not apply in relation to an *interest roll-up mortgage*, or to the type of *lifetime mortgage* described in **MCOB 9.4.132AR**.

- 11.6.57A** **G** The type of *lifetime mortgage* described in **MCOB 9.4.132AR** is one under which the *customer* makes payments to start with, but which can be converted to an *interest roll-up mortgage* at any time of the *customer's* choosing.

- 11.6.58** **R** A *mortgage lender* may not enter into an *interest roll-up mortgage*, or vary an existing *regulated mortgage contract* so that it becomes an *interest roll-up mortgage*, unless it is:

- (1) a *lifetime mortgage*; or
- (2) a *bridging loan*; or
- (3) a loan to a *high net worth mortgage customer*; or
- (4) a loan solely for business purposes; or
- (5) a *shared equity credit agreement*.

- 11.6.59** **G** *Firms* are reminded that an *interest roll-up mortgage* is a type of *interest-only mortgage*, where no payments of interest or capital are required or anticipated until the mortgage comes to an end. Depending always on their terms, it is possible to structure the types of product set out in

■ MCOB 11.6.58R (1) to ■ (4) as an *interest roll-up mortgage*. Where that is the case, ■ MCOB 11.6.2 R will not apply in relation to them, but ■ MCOB 11.6.40 G to ■ MCOB 11.6.52 G will apply to all *interest roll-up mortgages*, to the extent they are permitted by ■ MCOB 11.6.58 R.

11.6.59A G A *shared equity credit agreement* may be an *interest roll-up mortgage*.

Record-keeping

- 11.6.60** R
- (1) A *firm* must make, in paper or electronic form, an adequate record of the steps it takes to comply with the *rules* in this chapter in relation to each *customer*.
 - (2) The record in (1) must include the information taken into account in each affordability assessment, so that it is possible to understand from the record the basis of the *mortgage lender's* or *home purchase provider's* lending or financing decision, including (except as provided in ■ MCOB 11.6.32R (3) and ■ MCOB 11.6.39R (3)):
 - (a) the *customer's* income, including, where relevant, a breakdown of the different income types;
 - (b) the *customer's* committed expenditure;
 - (c) the basic essential expenditure and basic quality-of-living costs of the *customer's* household (whether actual expenditure for that household or assumed expenditure from statistical or other modelled data, including information to show why the assumed data is appropriate to that *customer's* household);
 - (d) the evidence relied on to assess income and expenditure;
 - (e) the rate or assumptions used to test affordability against likely future interest rate rises;
 - (f) the repayment type and term of the *regulated mortgage contract*, or the term of the *home purchase plan*; and
 - (g) the calculation used to determine whether the *regulated mortgage contract*, *home purchase plan* is (or, where applicable, following the variation, remains) affordable for the *customer*.
 - (3) In relation to *interest-only mortgages*, the record in (1) must include:
 - (a) the reasons for each decision to offer an *interest-only mortgage* to a *customer*;
 - (b) the evidence of the *customer's* *repayment strategy* and, where applicable, its cost;
 - (c) details of the *firm's* attempts to contact the *customer* where required by ■ MCOB 11.6.49 R; and
 - (d) the outcome of each review required by ■ MCOB 11.6.49 R (whether conducted once during the term of the *interest-only mortgage* or more frequently).
 - (4) In relation to the extension of the term of a *bridging loan* which falls within ■ MCOB 11.6.55 R, the record in (1) must include:
 - (a) the *customer's* positive choice to extend the term;
 - (b) the reasons for the decision to extend the term; and

- (c) the evidence of the *customer's repayment strategy* and its cost.
- (5) A firm must retain the records required by (1) to (4) for the term of the *regulated mortgage contract* or *home purchase plan*.
- (6) Where a firm enters into or varies a *regulated mortgage contract* or *home purchase plan* under ■ MCOB 11.7 (Transitional arrangements), it must keep, for the term of the contract or plan, a record of:
 - (a) the outstanding balance on the existing contract or plan;
 - (b) the cost of the repairs or maintenance work to the property, where relevant;
 - (c) any product fee or arrangement fee financed by any additional borrowing taken on under the contract or increase in the amount of finance provided under the plan; and
 - (d) the rationale for each decision made to enter into or vary a *regulated mortgage contract* or *home purchase plan* under ■ MCOB 11.7 (Transitional arrangements), including why the firm considered it to be in the *customer's* best interests.
- (7) A firm must make, and keep up to date, an adequate record of the policy required by ■ MCOB 11.6.20 R. When the policy is changed, a record of the previous policy must be retained for so long as any *regulated mortgage contract* or *home purchase plan* to which it was applicable remains outstanding.

[Note: article 18(2) of the MCD]

11.6.61

G

For the purposes of ■ MCOB 11.6.60R (2)(c) and ■ (g), if it is not practicable for the *firm* to record on the *customer's* file full details of the calculation method applied, it should record clearly which version of that method was applied in order that the file can be reviewed in conjunction with the applicable version of the method, so that it is possible to reconstruct the lending decision.

11.7 Transitional arrangements

- 11.7.1** **R** When considering *entering into a first charge regulated mortgage contract* or varying a *first charge regulated mortgage contract* or *home purchase plan*, a firm need not apply the rules in ■ MCOB 11.6.2 R to ■ MCOB 11.6.18 R inclusive (as modified by ■ MCOB 11.6.25 R to ■ MCOB 11.6.31 R and ■ MCOB 11.6.33 R to ■ MCOB 11.6.38 R, where applicable) if it has established, acting reasonably, that the following conditions are satisfied:
- (1) the *customer* has:
 - (a) an existing *first charge regulated mortgage contract* (whether or not entered into on or after 31 October 2004) with the *firm* or *home purchase plan* (whether or not entered into on or after 6 April 2007) which was in existence prior to 26 April 2014; or
 - (b) an existing *first charge regulated mortgage contract* with the *firm* or *home purchase plan* which was entered into in reliance on, and in compliance with, ■ MCOB 11.7;
 - (2) subject to ■ MCOB 11.7.2 R, the proposed *regulated mortgage contract* or *home purchase plan*, or variation, would not involve the *customer* taking on additional borrowing (or, for a *home purchase plan*, increasing the amount of finance provided under the plan) beyond the amount currently outstanding under the existing *regulated mortgage contract* or *home purchase plan*, other than to finance any product fee or arrangement fee for the proposed new or varied contract;
 - (3) the proposed transaction would be in the *customer's* best interests; and
 - (4) the *customer* has not, after 26 April 2014 increased the size of the advance under the existing *regulated mortgage contract* or *home purchase plan* other than to finance any relevant product fee or arrangement fee in relation to, or the cost of essential repairs or maintenance to the property which is the subject of, that *regulated mortgage contract* or *home purchase plan*.
- 11.7.2** **R** The condition in ■ MCOB 11.7.1R (2) does not apply if each of the following conditions is satisfied:
- (1) the *firm* is the *mortgage lender* or *home purchase provider* under the existing *regulated mortgage contract* or *home purchase plan* in ■ MCOB 11.7.1R (1);

- | | | |
|--------|----------|---|
| | | <ul style="list-style-type: none"> (2) the value of the property which is the subject of the <i>regulated mortgage contract</i> or <i>home purchase plan</i> is at risk if repairs or maintenance work to the property are not carried out; (3) the funds generated by the additional borrowing or increase in finance provided are to be used to carry out the repairs or maintenance work; and (4) the <i>firm</i> has obtained credible evidence which demonstrates that the additional borrowing or increase in finance are no more than the cost of the repairs or maintenance work. (5) the proposed transaction is: <ul style="list-style-type: none"> (a) the variation of an existing non-MCD <i>first charge regulated mortgage contract</i>, (b) the entry into a non-MCD <i>first charge regulated mortgage contract</i>, or (c) a <i>home purchase plan</i> or variation of a <i>home purchase plan</i>. |
| 11.7.3 | R | <ul style="list-style-type: none"> (1) When considering <i>entering into a first charge regulated mortgage contract</i> which is an <i>interest-only mortgage</i> or varying a <i>first charge regulated mortgage contract</i> which is an <i>interest-only mortgage</i>, a <i>mortgage lender</i> need not apply the rules in ■ MCOB 11.6.41R (1), ■ MCOB 11.6.49 R, ■ MCOB 11.6.50 R and ■ MCOB 11.6.60R (3) if the conditions in ■ MCOB 11.7.1 R) are satisfied, and if it has established, acting reasonably, that the existing <i>regulated mortgage contract</i> in ■ MCOB 11.7.1R (1) is an <i>interest-only mortgage</i>. (2) Where only part of the sum advanced under the existing <i>regulated mortgage contract</i> is on an interest-only basis, (1) applies, but only to that part. |
| 11.7.4 | G | In accordance with its obligation under <i>Principle 6</i> to treat its <i>customers</i> fairly, a <i>firm</i> should not treat a <i>customer</i> with whom it <i>enters into</i> or varies a <i>regulated mortgage contract</i> or <i>home purchase plan</i> pursuant to this section 11.7 less favourably than it would treat other <i>customers</i> with similar characteristics, for example by offering less favourable interest rates or other terms. |
| 11.7.5 | G | <i>Firms</i> should note the record-keeping requirements at ■ MCOB 11.6.60R (6) which apply when <i>regulated mortgage contracts</i> and <i>home purchase plans</i> are <i>entered into</i> or varied under this section. |
| 11.7.6 | R | Where a <i>firm</i> has elected to apply any of MCOB TPs 22, 24, 26, 28, 30, 32, 34, 36, 38 or 40 in ■ MCOB TP 1.1, any <i>first charge regulated mortgage contract</i> they propose to enter into between 21 September 2015 and 21 March 2016 is not to be regarded as an <i>MCD regulated mortgage contract</i> for the purposes of this chapter. |



11.8 Customers unable to change regulated mortgage contract, home purchase plan or provider

11.8.1

E Where a *customer* is unable to:

- (1) enter into a new *regulated mortgage contract* or home purchase plan or vary the terms of an existing *regulated mortgage contract* or *home purchase plan* with the existing *mortgage lender* or *home purchase provider*; or
- (2) enter into a new *regulated mortgage contract* or *home purchase plan* with a new *mortgage lender* or *home purchase provider*;

the existing *mortgage lender* or *home purchase provider* should not (for example, by offering less favourable interest rates or other terms) take advantage of the *customer's* situation or treat the *customer* any less favourably than it would treat other *customers* with similar characteristics. To do so may be relied on as tending to show contravention of *Principle 6* (Customers' interests).

11.9 Remortgaging with the same or a different lender with no additional borrowing

Application and purpose

11.9.1

R

- (1) Subject to (2), this section applies to a *firm* in relation to a *customer* who:
- (a) is a borrower under a *regulated mortgage contract* ("the existing *regulated mortgage contract*"), whether with that *firm* or a different *firm*; and
 - (b) wishes to enter into a new *regulated mortgage contract* ("the proposed *regulated mortgage contract*") with that *firm* to replace the existing *regulated mortgage contract*.
- (2) But this section only applies if:
- (a) the proposed *regulated mortgage contract* would not involve the *customer* borrowing:
 - (i) a capital amount greater than that outstanding under the existing *regulated mortgage contract* at the date of the *customer's* application for the proposed *regulated mortgage contract*; or
 - (ii) where a purpose of the proposed *regulated mortgage contract* is to replace two or more existing *regulated mortgage contracts*, a capital amount greater than the cumulative capital amount outstanding under those contracts at that date;disregarding any increase that is exclusively for the purpose of financing a product fee or arrangement fee for the proposed *regulated mortgage contract* or a fee charged by a *mortgage intermediary* for *arranging* or *advising on regulated mortgage contracts* in relation to the proposed *regulated mortgage contract*;
 - (b) the proposed *regulated mortgage contract* is to be secured on the same property as the existing *regulated mortgage contract*;
 - (c) on the date on which the *customer* applies for the proposed *regulated mortgage contract*:
 - (i) there is no sum that has become due under the terms of the existing *regulated mortgage contract* that constitutes a *payment shortfall*; and
 - (ii) at no point in the period of 12 *months* ending on that date has there been a sum that has become due under the terms

of the existing *regulated mortgage contract* that constituted a *payment shortfall*;

(d) the written policy required by ■ MCOB 11.6.20R (responsible lending policy) addresses how the *firm* will apply the *rules* in this section; and

(e) the *firm* has and operates an internal switching policy (see ■ MCOB 11.9.12R).

(3) For the purposes of this section, *linked borrowing* which is linked to an existing *regulated mortgage contract* is to be treated as if it were an existing *regulated mortgage contract*.

11.9.2 **R** ■ MCOB 11.9.14R (notice to customers) also applies to a *firm* that has *permission* for *administering a regulated mortgage contract*.

11.9.3 **G**

(1) The purpose of this section is to facilitate borrowers switching mortgages, provided that they are not taking out additional borrowing. But the mortgage does not have to be exactly like-for-like and the borrower can, for example:

- (a) extend the term of the mortgage, for example to replace a mortgage with 10 years remaining with a new mortgage with a 25-year term;
- (b) consolidate a *first charge regulated mortgage contract* and one or more *second charge regulated mortgage contracts* into the proposed *regulated mortgage contract* (but unsecured loans and other debts cannot be consolidated, unless the unsecured loan or debt is *linked borrowing* which is linked to an existing *regulated mortgage contract*);
- (c) move from an *interest-only mortgage* to a *repayment mortgage* (provided it is more affordable); or
- (d) take a mortgage with a different type of interest rate, for example to move from a variable rate to a fixed rate.

(2) This section permits *firms* to choose to modify certain provisions when assessing a *customer's* ability to afford a mortgage. The provisions capable of modification are grouped (such as the provisions linked to the assessment of income and expenditure). *Firms* can choose whether to adopt all, some, or none of the modifications in this section, on a case-by-case basis (though they cannot modify some provisions in a group and not others). However, we would expect *firms* to have regard to *Principle 6* ("A *firm* must pay due regard to the interests of its *customers* and treat them fairly") and not unfairly apply *rules* in one case but not another where the *customers'* circumstances are otherwise the same.

(3) But the *firm* must have an internal switching policy in place and operate in accordance with it, if it wishes to rely on the *rules* in this section. This means that, if the *firm* has allowed a *customer* to remortgage to it, it will allow the *customer* the benefit of the *rules* in this section again, or rely on ■ MCOB 11.6.3R or ■ MCOB 11.7 (if relevant), if the *customer* wants to switch again to a more affordable product with the *firm* (see ■ MCOB 11.9.12R). In addition, the *firm's*

responsible lending policy (see ■ MCOB 11.6.20R) must set out how the *firm* will apply the *rules* in this section.

- (4) Where a *customer* has a *payment shortfall* and has entered into a repayment arrangement with their current *mortgage lender*, the *customer* should be treated as having a *payment shortfall* until such time as the shortfall is repaid. This would be the case even though the *customer* may have started to have a *payment shortfall* more than 12 *months* before the date on which they apply for the proposed *regulated mortgage contract* but they are (and have been) up to date with payments under the repayment arrangement. Where a *payment shortfall* has been capitalised in accordance with ■ MCOB 13, the *firm* may treat the *customer* as eligible provided that the capitalisation occurred more than 12 *months* before the date on which the *customer* applies for the proposed *regulated mortgage contract* and the *customer* has made all the payments due under the mortgage contract during those 12 *months* on time.

The assessment of affordability

11.9.4

R

- (1) A *firm* may elect that the modifications to the *rules* in MCOB specified in (2) are to apply in relation to the proposed *regulated mortgage contract*. The *firm* may not elect that only some of those modifications apply in relation to the proposed *regulated mortgage contract* but not others.
- (2) (a) ■ MCOB 11.6.2R does not apply, but ■ 11.9.5R applies in its place.
(b) ■ MCOB 11.6.3R and ■ 11.6.4E do not apply.
(c) ■ MCOB 11.6.5R and ■ 11.6.6R do not apply.

11.9.5

R

- (1) The *firm* must not enter into the proposed *regulated mortgage contract* unless that contract is more affordable for the *customer* (and any guarantor) than the existing *regulated mortgage contract*.
- (2) The proposed *regulated mortgage contract* is more affordable than the existing *regulated mortgage contract* if:
- (a) the aggregate amount of:
- (i) the monthly payments due from the *customer* under that contract in respect of any discounted or introductory period, or (where there is no discounted or introductory period) in respect of the term of the proposed *regulated mortgage contract*; and
 - (ii) any product fee or arrangement fee due from the *customer* in relation to that contract, and any fee charged by a *mortgage intermediary* for arranging or advising on *regulated mortgage contracts* in relation to that contract, which the *customer* intends to pay without including it in the amount being lent under the proposed *regulated mortgage contract*;

is less than the aggregate amount due from the *customer* under the existing *regulated mortgage contract* (or all the existing *regulated mortgage contracts*, if more than one) in respect of the proposed *regulated mortgage contract's* discounted or

introductory period or (where there is no discounted or introductory period) in respect of the term of each existing *regulated mortgage contract*;

- (2) the monthly payment that was due from the *customer* under the existing *regulated mortgage contract* (or the aggregate of the monthly payments due under all the existing *regulated mortgage contracts*, if more than one) in each of the 12 *months* before the date on which the customer applies for the proposed *regulated mortgage contract*, ignoring any atypical payments, was greater than:
 - (b) the typical monthly payment which would be due from the *customer* under the proposed *regulated mortgage contract* in any discounted or introductory period; or
 - (b) (where there is no discounted or introductory period) the typical monthly payment which is expected to be due for the term of the proposed *regulated mortgage contract*; and
- (2) the interest rate applicable under the proposed *regulated mortgage contract*:
 - (c) in respect of any discounted or introductory period; or
 - (c) (where there is no discounted or introductory period) that which is expected to apply during the term of the contract;

is lower than the interest rate currently applicable under the existing *regulated mortgage contract* (or each existing *regulated mortgage contract*, if more than one).

11.9.6

G

- (1) ■ MCOB 11.6.7G does not apply in relation to a *regulated mortgage contract* entered into under *rules* disappplied by virtue of ■ MCOB 11.9.4R.
- (2) ■ MCOB 11.9.5R(2) determines whether one *regulated mortgage contract* is more affordable than another. The references in that *rule*:
 - (a) to a discounted or introductory period include, for example, any fixed rate period after which a different interest rate applies, and any period in respect of which interest is deferred. Where interest is due in respect of a discounted or introductory period but is deferred, it is the gross rate payable that should be considered for the purposes of the conditions in ■ MCOB 11.9.5R(2), as if interest were not deferred;
 - (b) to a typical monthly payment should be taken to ignore any payment in respect of a period greater or less than a *month* (for example, where a first payment is larger, or smaller, than that which would normally be due because it relates to a period greater or less than a *month*);
 - (c) to aggregate amounts due under the existing *regulated mortgage contract* should be taken to be on the assumption that that contract would not be redeemed early and would not incur an *early repayment charge*; and
 - (d) to future payments or interest rates should be taken to be on the assumption that there is no variation to the reference rate in question, unless the *regulated mortgage contract* expressly provides for a variation (for example, when considering a lifetime

Bank of England base rate tracker, it should be assumed that the Bank of England base rate will remain unchanged).

Assessment of income and expenditure

11.9.7

R

- (1) A *firm* may elect that the modifications to the *rules* in *MCOB* specified in (2) are to apply in relation to the proposed *regulated mortgage contract*. The *firm* may not elect that only some of those modifications apply in relation to the proposed *regulated mortgage contract* but not others.
- (2)
 - (a) ■ *MCOB 11.6.8R*, ■ *11.6.10R* and ■ *11.6.12R* (income and expenditure) do not apply.
 - (b) ■ *MCOB 11.6.14R* (future changes to income and expenditure) does not apply, but if the term of the proposed *regulated mortgage contract* extends beyond the date on which the *customer* (or, where there are joint borrowers, one of them) expects to retire or, where that date is not known, the date on which the *customer* will reach the state pension age, the *firm* must consider whether the *customer's* income beyond that date would be sufficient to enable them to meet their commitments under the contract.
 - (c) ■ *MCOB 11.6.18R* (considering the effect of future interest rate rises) does not apply.

11.9.8

G

- (1) ■ *MCOB 11.9.7R* modifies the affordability assessment required by ■ *MCOB 11.6*, in line with the modification to ■ *MCOB 11.6.2R* made by ■ *MCOB 11.9.4R*. This is on the basis that a *customer* who has evidenced an ability to afford a mortgage at a higher monthly payment than that which would be charged under the proposed *regulated mortgage contract* may be treated as likely to be able to afford the proposed *regulated mortgage contract*.
- (2) ■ *MCOB 11.6.9G*, ■ *11.6.11G*, ■ *11.6.13G* and ■ *11.6.15G* do not apply in relation to a *regulated mortgage contract* entered into under *rules* which are disapplied by virtue of ■ *MCOB 11.9.7R*.
- (3) If the term of the proposed *regulated mortgage contract* extends beyond the date on which the *customer* (or, where there are joint borrowers, one of them) expects to retire or, where that date is not known, will reach the state pension age, the *firm* should take a prudent and proportionate approach to considering whether the *customer's* income beyond that date would be sufficient to enable them to meet their commitments under the contract. The degree of scrutiny to be adopted may vary according to the period of time remaining to retirement when the assessment is made. The closer the *customer* is to retiring, the more robust the evidence of the level of income in retirement should be. For example, where retirement is many years in the future, it may be sufficient merely to confirm the existence of some pension provision for the *customer* by requesting evidence such as a pension statement; where the *customer* is close to retirement, the more robust steps may involve considering expected pension income from a pension statement.

- (4) This section does not prevent a *firm* from undertaking an investigation of the *customer's* financial circumstances before offering to enter into a *regulated mortgage contract* with the *customer*. Where a *firm* does so, it may take into account that the *customer* is not in *payment shortfall* and that the proposed *regulated mortgage contract* is more affordable than the existing *regulated mortgage contract* when determining the nature and degree of that investigation. In particular, the *firm* may also wish to consider whether it is necessary to require the same information from the *customer* as it would from a customer who does not currently have a *regulated mortgage contract*.
- (5) If the *firm* is considering the effect of future interest rate rises on the prospect of the *customer* meeting their obligations under the proposed *regulated mortgage contract*, the *firm* may wish to have regard to the extent to which the interest rate applicable to the existing *regulated mortgage contract* is higher than that applicable to the proposed *regulated mortgage contract*. The *firm* may also wish to have regard to the fact that the *customer* is not in *payment shortfall* in relation to the existing *regulated mortgage contract*.

Interest-only mortgages

11.9.9

R

- (1) A *firm* may elect that all of ■ 11.6.41R, ■ 11.6.43R, ■ 11.6.46E, ■ 11.6.46AR, ■ 11.6.48R and ■ 11.6.50R do not apply in relation to the proposed *regulated mortgage contract*.
- (2) But a *firm* may not make an election under (1) if:
 - (a) the existing *regulated mortgage contract* is a *repayment mortgage* and the proposed *regulated mortgage contract* is an *interest-only mortgage*; or
 - (b) under the terms of the proposed *regulated mortgage contract*, the capital amount that will be outstanding at the end of that contract may be higher than that which would be outstanding at the end of the existing *regulated mortgage contract* (or the aggregate of that which would be outstanding at the end of each existing *regulated mortgage contract*, if more than one).

11.9.10

G

- (1) ■ MCOB 11.6.40G, ■ 11.6.40AG, ■ 11.6.42G, ■ 11.6.44G, ■ 11.6.45G, ■ 11.6.47G, ■ 11.6.51G and ■ 11.6.52G do not apply in relation to a *regulated mortgage contract* entered into under *rules* which are disapplied by virtue of ■ MCOB 11.9.9R.
- (2) ■ MCOB 11.6.49R (review during the term of interest-only mortgages) applies to an *interest-only mortgage* entered into by a *firm* which has made an election under ■ MCOB 11.9.9R(1).

Explanation of affordability assessment, and accompanying warning

11.9.11

R

- (1) This *rule* applies if a *firm* makes an election under any of the following *rules*:
 - (a) ■ MCOB 11.9.4R (assessment of affordability);
 - (b) ■ MCOB 11.9.7R (assessment of income and expenditure);

(c) ■ MCOB 11.9.9R (interest-only mortgages).

- (2) The *firm* must provide the *customer* with an explanation which indicates:
 - (a) what steps the *firm* has taken to ascertain that the proposed *regulated mortgage contract* is more affordable than the existing *regulated mortgage contract*; and
 - (b) how the steps it has taken differ from the steps it would have taken under ■ MCOB 11.6 if the *firm* had not applied *rules* in this section.
- (3) The *firm* must accompany the explanation with a warning (as relevant to the individual case) that:
 - (a) interest rates may increase and the *customer* could end up paying a higher interest rate than they are currently paying under the existing *regulated mortgage contract*, even though the *firm* has assessed that the proposed *regulated mortgage contract* is currently more affordable;
 - (b) the *firm's* assessment that the proposed *regulated mortgage contract* is currently more affordable has not taken into account any *early repayment charges* that the *customer* may incur in relation to repaying their existing *regulated mortgage contract*; and
 - (c) where the term of the proposed *regulated mortgage contract* is to end later than the term of the existing *regulated mortgage contract*, the *customer* may end up paying more in interest overall as a result of entering into the proposed *regulated mortgage contract*.
- (4) The *firm* must provide the explanation and the warning:
 - (a) in a *durable medium*; and
 - (b) no later than the *firm* provides the *customer* with an *offer document*.
- (5) The *firm* need not provide an explanation or a warning under this *rule* if a *mortgage intermediary* has already provided the explanation and the warning to the *customer* in relation to the proposed *regulated mortgage contract*.

Internal switching policy

11.9.12 R

- (1) An internal switching policy is a policy which:
 - (a) is made or approved by the *governing body* of the *firm*; and
 - (b) commits or obliges the *firm*:
 - (i) to permit an eligible *customer* to enter into a more affordable *regulated mortgage contract* (see ■ MCOB 11.9.5R(2)); and
 - (ii) to apply such of the *rules* in this section as may be necessary to enable that *customer* to enter into that contract (though the *firm* may apply other *rules* in addition if it wishes), or to rely on ■ MCOB 11.6.3R or ■ MCOB 11.7 (if relevant) to enable that *customer* to enter into that contract.

- (2) For the purposes of an internal switching policy, a *customer* must be eligible if:
 - (a) the *firm* has entered into the existing *regulated mortgage contract* as the lender;
 - (b) the *firm* chose to apply one or more of the *rules* in this section in relation to the existing *regulated mortgage contract*;
 - (c) the *customer* wishes to enter into a more affordable *regulated mortgage contract* with the *firm* (see ■ MCOB 11.9.5R(2)); and
 - (d) the *customer* meets the conditions in ■ MCOB 11.9.1R(2)(c)(i) and (ii).

11.9.13 E If a *firm* has an internal switching policy but does not, without good reason:

- (1) permit an eligible *customer* to enter into a more affordable *regulated mortgage contract*; or
- (2) apply ■ MCOB 11.6.3R or ■ MCOB 11.7 (if relevant) or such of the *rules* in this section as may be necessary to enable that *customer* to enter into the more affordable *regulated mortgage contract*;

this may be relied on as tending to show contravention of *Principle 6*.

Notice to customers

11.9.14 R

- (1) For the purpose of this *rule*, a *customer* is a notifiable *customer* if, when the *firm* makes the determination required by this *rule*:
 - (a) the *customer* meets the conditions in ■ MCOB 11.9.1R(2)(c)(i) and ■ (ii), and there is no fee or charge which has become payable under the *regulated mortgage contract* and remains unpaid beyond the date on which it was due to be paid;
 - (b) the *customer's regulated mortgage contract* is:
 - (i) not a *lifetime mortgage*; and
 - (ii) for residential purposes, and the *customer* does not have the lender's consent to let the property; and
 - (c) the *regulated mortgage contract* had a discounted or introductory period which has expired (such that the interest rate payable by the *customer* under that contract is a reversion or standard variable rate).
- (2) A *firm* with *permission* for administering a *regulated mortgage contract* must have, and operate in accordance with, a strategy for:
 - (a) determining whether each of the *customers* in relation to whom the *firm* is carrying on that activity for an unregulated owner is a notifiable *customer*; and
 - (b) giving the notice required by this *rule* at least once to each such notifiable *customer*.
- (3) For the purposes of (2), an unregulated owner is a person who does not have *permission* for entering into a *regulated mortgage contract* and:

- (a) who entered into the *regulated mortgage contract* as lender; or
 - (b) to whom the rights of the lender under *regulated mortgage contract* have passed by legal or equitable assignment, or by operation of law.
- (4) A *firm* which has *permission* for entering into a *regulated mortgage contract* but is no longer carrying on that activity in relation to a particular portfolio or book of *regulated mortgage contracts* must have, and operate in accordance with, a strategy for:
- (a) determining whether each of the *customers* in that portfolio or book is a *notifiable customer*; and
 - (b) giving the notice required by this *rule* at least once to each such *notifiable customer*.
- (5) The notice must:
- (a) include a statement to the effect that it has recently become simpler for a *customer* to enter into a more affordable mortgage with another lender if the *customer* is not looking to borrow any more than they currently owe under their mortgage and has kept up to date with their mortgage payments over the last 12 *months*; and
 - (b) refer the *customer* to sources of information about how to switch their mortgage to a lender who applies the *rules* in this section.
- (6) A notice under this *rule* must be in a *durable medium*.
- (7) A *firm* is not required to give a notice under this *rule* to a *customer* in relation to a *regulated mortgage contract* if another *person* has given such a notice to the *customer* in relation to that contract.

11.9.15 **R**

- (1) The *governing body* of the *firm* must adopt or approve the strategy required by ■ **MCOB 11.9.14R** no later than 1 May 2020.
- (2) The *firm* must make the determination and give the notice required by ■ **MCOB 11.9.14R** no later than 15 January 2021.

11.9.16 **G**

In developing and implementing their strategy for notifying relevant borrowers of the possibility of switching lender under this section, *firms* should have regard both to the purpose of this section and to the likely timescales for lenders to be ready to offer mortgages to borrowers in reliance on the *rules* in this section. For example, they should neither notify borrowers before there are lenders ready to make use of the *rules* in this section, nor delay sending notices until shortly before 15 January 2021 (as to do so might leave borrowers paying for a less affordable mortgage for longer than is necessary).

Chapter 11A

Additional MCD responsible lending requirements



11A.1 MCD mortgage credit intermediary: submission of information to MCD mortgage lender

- 11A.1.1 **R** An *MCD mortgage credit intermediary* must accurately submit any relevant information obtained from the *consumer* to the *MCD mortgage lender* to enable an assessment of affordability to be carried out.
- [Note: article 20(2) of the *MCD*]



11A.2 Prohibition on cancellation or variation of MCD regulated mortgage contract on grounds of creditworthiness

11A.2.1

R

An *MCD mortgage lender* must not cancel, or vary the terms of, an *MCD regulated mortgage contract* to the detriment of the *consumer* on the grounds that the assessment of affordability was incorrectly conducted or the information provided by the *consumer* prior to the agreement of the *MCD regulated mortgage contract* was incomplete. However, this does not apply where the *MCD mortgage lender* can demonstrate that the *consumer* knowingly withheld or falsified information relevant to the assessment of affordability of the *MCD regulated mortgage contract*.

[**Note:**articles 18(4) and 20(3) of the *MCD*]

11A.3 **Obtaining information for, and assessment of, affordability from the consumer and rejecting an application**

11A.3.1 **R**

- (1) An *MCD mortgage lender* must specify in a fair, clear and not misleading way, in good time before assessing affordability of a *MCD regulated mortgage contract*, to a *consumer*:
 - (a) all the necessary information and independently verifiable evidence that the *consumer* needs to provide; and
 - (b) the timeframe within which the *consumer* needs to provide the information or evidence.
- (2) A request for information or evidence under (1) must be proportionate and limited to what is necessary to conduct a proper affordability assessment.
- (3) A request for information or evidence under (1) may be made directly or through an *MCD mortgage credit intermediary*. The *MCD mortgage lender* or the *MCD mortgage credit intermediary*, if requesting on behalf of the *MCD mortgage lender*, must:
 - (a) ensure the *consumer* is aware of the need to provide correct information in response to the request and that such information is as complete as necessary to conduct a proper assessment of affordability; and
 - (b) warn the *consumer* that, where the *MCD mortgage lender* is unable to carry out an assessment of affordability because the *consumer* chooses not to provide the information or evidence necessary for an assessment of affordability, the credit cannot be granted.
- (4) The *MCD mortgage lender* may seek clarification, directly or through an *MCD mortgage credit intermediary*, of the information or evidence received in response to a request under (1), where necessary, to enable the assessment of affordability of an *MCD regulated mortgage contract*.

[Note: article 20(3) and (4) of the *MCD*]

11A.3.2 **G** An *MCD mortgage lender* must inform a *consumer* in advance if a database is to be consulted in conducting any assessment of affordability for an *MCD regulated mortgage contract*.

[Note: article 18(5)(b) of the *MCD*]

11A.3.3 **R** (1) Where an *MCD mortgage lender* rejects a *consumer's* application for an *MCD regulated mortgage contract*, the *MCD mortgage lender* must inform the *consumer* without delay:

- (a) of the rejection and, where applicable, that the decision is based on automated processing of data; and
- (b) where the rejection is based on the result of the database consultation, of the result of such consultation and of the particulars of the database consulted.

[Note: article 18(5)(c) of the *MCD*]

(2) No obligation under (1) shall be interpreted in a manner which contravenes *data protection legislation*.

Chapter 12

Charges



12.1 Application

Who?

12.1.1 R This chapter applies to a *firm* in a category listed in column (1) of the table in ■ MCOB 12.1.2 R in accordance with column (2) of that table.

12.1.2 R This table belongs to ■ MCOB 12.1.1 R

(1) Category of firm	(2) Applicable section
<i>mortgage lender</i>	whole chapter except MCOB 12.1.6 R and MCOB 12.7
<i>mortgage adviser</i> <i>mortgage arranger</i>	MCOB 12.1 (except MCOB 12.1.6 R), MCOB 12.2 and MCOB 12.5.2 R
<i>mortgage administrator</i> <i>a firm that was a mortgage lender or mortgage administrator before the sale of a repossessed property</i>	MCOB 12.1 (except MCOB 12.1.6 R), MCOB 12.2, MCOB 12.4 and MCOB 12.5.2 R
<i>home purchase provider</i> <i>home purchase adviser</i> <i>home purchase arranger</i> <i>home purchase administrator</i> <i>a firm that was a home purchase provider or home purchase administrator before the sale of a repossessed property</i>	MCOB 12.1.1 R to MCOB 12.1.3 R and MCOB 12.7
<i>regulated sale and rent back firm</i>	MCOB 12.1.1 R to MCOB 12.1.3 R, MCOB 12.2.1 G and MCOB 12.5
<i>reversion provider</i>	MCOB 12.1, MCOB 12.2 and MCOB 12.5.1 R to MCOB 12.5.3 G
<i>reversion adviser</i> <i>reversion arranger</i> <i>reversion administrator</i> <i>a firm that was a reversion provider or reversion administrator before the termination of a home reversion plan</i>	MCOB 12.1, MCOB 12.2, MCOB 12.5.2 R and MCOB 12.5.3 G

		What?
12.1.3	R	<p>This chapter applies where a <i>firm</i>:</p> <ul style="list-style-type: none"> (1) <i>enters into</i>, or makes a further advance on, a <i>home finance transaction</i>; or (2) <i>administers a home finance transaction</i>; or (3) <i>arranges or advises on a home finance transaction</i> or a variation to the terms of a <i>home finance transaction</i>.
12.1.4	R	<p>The <i>payment shortfall</i> charges and excessive charges requirements in this chapter will continue to apply to a <i>firm</i> after a <i>regulated mortgage contract</i> has come to an end following the sale of a <i>repossessed</i> property. The excessive charges requirements will continue to apply to a <i>firm</i> after a <i>home reversion plan</i> has ended. References in this chapter to '<i>customer</i>' will include references to a former <i>customer</i> as appropriate.</p>
12.1.5	G	<p>The <i>FCA</i> will expect a <i>firm</i> to ensure that charges made to a <i>customer</i> arising from the sale of a <i>repossessed</i> property and charges arising in relation to a <i>sale shortfall</i> are not excessive and are subject to the same considerations as apply with respect to <i>payment shortfall</i> charges under this chapter.</p>
		<p>Charges under regulated mortgage contracts which had previously been regulated credit agreements</p>
12.1.5A	R	<p>The <i>rules</i> in ■ MCOB 12.4 (Payment shortfall charges: regulated mortgage contracts) and ■ MCOB 12.5 (Excessive charges: regulated mortgage contracts, home reversion plans and regulated sale and rent back agreements) apply to:</p> <ul style="list-style-type: none"> (1) <i>second charge regulated mortgage contracts</i> entered into before 21 March 2016, in relation to charges imposed on a customer for events occurring on or after 21 March 2016; and (2) <i>regulated mortgage contracts</i> which are <i>legacy CCA mortgage contracts</i> secured by a <i>first charge legal mortgage</i>, in relation to charges imposed on a customer for events occurring on or after the earliest of: <ul style="list-style-type: none"> (a) the date on which the <i>lender</i> first acts in compliance or purported compliance with <i>rules</i> in the <i>FCA Handbook</i> which apply to <i>regulated mortgage contracts</i> in respect of the contract; (b) the date from which the <i>lender</i> notifies the borrower in writing that it will act in compliance with such <i>rules</i> in respect of the contract; and (c) 21 March 2017.
12.1.6	R	<p>This chapter does not apply to a <i>firm</i> carrying on <i>reversion activities</i> or <i>regulated sale and rent back activities</i> in respect of a <i>customer</i> acting in his capacity as an <i>unauthorised reversion provider</i> or as an <i>unauthorised SRB agreement provider</i>.</p>

12.2 Purpose

12.2.1

G

- (1) *Principle 6* requires a *firm* to pay due regard to the interests of its *customers* and treat them fairly. A *firm* is also under an obligation, as a consequence of this sourcebook's disclosure requirements, to make charges transparent to *customers*. This chapter reinforces these requirements by preventing a *firm* from imposing unfair and excessive charges.
- (2) The level of charges under a *regulated mortgage contract*, *home reversion plan* or *regulated sale and rent back agreement* is not typically a matter for regulation. However, in certain limited circumstances, the *FCA* believes that *customers* should be protected from unfair and excessive charging practices. This chapter considers four specific circumstances, where:
 - (a) the charges imposed upon a *customer* seeking to terminate a *regulated mortgage contract* before the end of the term of the contract do not reflect the cost of termination to the *firm*;
 - (b) the charges imposed on a *customer* in payment difficulties are not based upon the costs incurred by the *firm*;
 - (c) the charges (including rates of interest) imposed on a *customer* under a *regulated mortgage contract*, *home reversion plan* or *regulated sale and rent back agreement* are excessive and contrary to the *customer's* interests; and
 - (d) the charges made to a *customer* in connection with a *firm* entering into, making a further advance on, administering, arranging or advising on a *regulated mortgage contract*, *home reversion plan* or *regulated sale and rent back agreement*, or arranging or advising on a variation to the terms of a *regulated mortgage contract*, *home reversion plan* or *regulated sale and rent back agreement* are excessive.

12.3 Early repayment charges: regulated mortgage contracts

Early repayment charges to be expressed as cash and to be reasonable

- 12.3.1** **R** A *firm* must ensure that any *regulated mortgage contract* that it enters into does not impose, and cannot be used to impose, an *early repayment charge* other than one that is:
- (1) able to be expressed as a cash value; and
 - (2) a reasonable pre-estimate of the costs as a result of the *customer* repaying the amount due under the *regulated mortgage contract* before the contract has terminated.

- 12.3.2** **G** A *firm* can choose the method it employs for calculating *early repayment charges* in accordance with ■ MCOB 12.3.1 R. A *firm* should not use the 'Rule of 78' , which is not appropriate as it effectively overstates the cost to the *mortgage lender*.

- 12.3.3** **G** A *firm* may calculate the same level of *early repayment charge* for all *regulated mortgage contracts* of a similar type (for example a tranche of *regulated mortgage contracts* offering a particular fixed rate of interest), rather than on the basis of the individual *regulated mortgage contract* with the particular *customer*.

Early repayment charges to be disclosed in illustrations

- 12.3.4** **R** Before:
- (1) *entering into a regulated mortgage contract* with a *customer*; or
 - (2) making a further advance on an existing *regulated mortgage contract*; or
 - (3) changing all or part of a *regulated mortgage contract* from one interest rate to another; a *firm* must disclose to the *customer*:
 - (a) in the illustration provided in accordance with ■ MCOB 5, ■ MCOB 7.6.7 R, ■ MCOB 7.6.18 R, ■ MCOB 7.6.22 R, ■ MCOB 7.6.31 R, or ■ MCOB 9; and
 - (b) in the *illustration* provided as part of the offer document in accordance with ■ MCOB 6.4.1 R(1) and ■ MCOB 9.5;

the maximum amount payable as an *early repayment charge* in respect of that *regulated mortgage contract*, if an *early repayment charge* applies.

Early settlement charges on second charge regulated mortgage contracts

12.3.5

G

The effect of article 29 of the *MCD Order* is that various provisions of, or made under, the *CCA* continue to apply to “consumer credit back book mortgage contracts” (as defined in article 2 of the *MCD Order*). These include the Consumer Credit (Early Settlement) Regulations 2004, which continue to apply to a *second charge regulated mortgage contract* entered into before 21 March 2016 and to a *legacy CCA mortgage contract*.

		12.4	Payment shortfall charges: regulated mortgage contracts
12.4.1	R	<p>(1) A <i>firm</i> must ensure that any <i>regulated mortgage contract</i> that it enters into does not impose, and cannot be used to impose, a charge or charges for a <i>payment shortfall</i> on a <i>customer</i> unless the <i>firm</i> is able objectively to justify that the charge is equal to or lower than a reasonable calculation of the cost of the additional administration required as a result of the <i>customer</i> having a <i>payment shortfall</i>.</p> <p>(2) [deleted]</p>	
12.4.1A	E	<p>The imposition of a charge for a <i>payment shortfall</i> on a <i>customer</i> who is adhering to an arrangement under which the <i>customer</i> and the <i>firm</i> agree that the <i>customer</i> will make payments of a set amount per month (or other agreed period) on agreed dates may be relied upon as tending to show contravention of ■ MCOB 12.4.1R (1)</p>	
12.4.1B	R	<p>When:</p> <ol style="list-style-type: none"> (1) a <i>customer</i> has a <i>payment shortfall</i> in respect of a <i>regulated mortgage contract</i>; (2) a payment is made which is not sufficient to cover all of the amounts that are currently due under that contract and the <i>firm</i> must therefore decide how to allocate the payment; and (3) as part of that decision, the <i>firm</i> is considering the respective priority to be given to: <ol style="list-style-type: none"> (a) the current month's periodic instalment of capital or interest (or both); (b) the <i>payment shortfall</i>; and (c) interest or charges resulting from the <i>payment shortfall</i>, the <i>firm</i> must set that order of priority in a way that will minimise the amount of the <i>payment shortfall</i> once the payment has been allocated. 	
12.4.1C	G	<p>■ MCOB 12.4.1BR does not preclude a <i>firm</i> applying part or all of a payment received to fees and charges not resulting from the <i>payment shortfall</i> (such as ground rent settled on behalf of the <i>customer</i>).</p>	

- 12.4.1D** **G** A *firm* may recalculate the periodic instalment of capital or interest (or both), provided that any such recalculation is consistent with the *firm's* obligations under the *Handbook*.
- If a *firm* exercises a power under the terms of a mortgage contract to recalculate periodic instalments of capital or interest (or both) using a mortgage balance that includes charges (such as *arrears* management charges) or interest arising because one or more monthly instalments were missed, the *firm* does not have to keep a record of the amount of each periodic instalment of capital or interest (or both) omitting any element of such charges or interest to comply with ■ **MCOB 12.4.1BR**.
- 12.4.2** **G** For each type of *payment shortfall* charge (for example, a monthly *arrears* management charge), a *firm* may calculate the same level of additional administration costs and *payment shortfall* charges for all *regulated mortgage contracts* where the *customer* is in *payment shortfall*, rather than performing a calculation on the basis of the individual *regulated mortgage contract* with the particular *customer*.
- 12.4.3** **G** *Firms* are also subject to requirements on information provision and standards relating to *payment shortfalls* and *reposessions* (see ■ **MCOB 13** (Payment difficulties and reposessions)).
- 12.4.4** **R** In calculating the cost of the additional administration required as a result of a *customer* having a *payment shortfall*, a *firm* must not take into account:
- (1) the following types of costs:
 - (a) funding or capital;
 - (b) general bank charges that are not incurred as a result of a *customer* having a *payment shortfall*;
 - (c) unrecovered fees;
 - (d) advertising costs; and
 - (e) regulatory fines;
 - (2) the costs of preparing financial reports for the *firm* unless there is an objectively justifiable reason to do so and the costs relate solely to the analysis and management of accounts in *payment shortfall*;
 - (3) executive staff costs unless there is an objectively justifiable reason to do so and the costs relate to the day-to-day management of customers in *payment shortfall*.
- 12.4.5** **R** In ■ **MCOB 12.4**, 'executive staff' means the staff or business owners responsible for the management of the *firm's* business.
- 12.4.6** **G**
- (1) For some *firms*, their executive staff will be the executive board members.
 - (2) Executive staff costs relating to company strategy, including *payment shortfall* strategy, should not be included as costs relating to the day-to-day management of *customers* in *payment shortfall*.

- (3) General financial reporting costs, including all legal and regulatory reporting costs, should not be included as costs relating solely to the analysis and management of accounts in *payment shortfall*.
- 12.4.7** **G** In calculating the cost of the additional administration required as a result of a *customer* having a *payment shortfall*, the *firm*:
- (1) may, where appropriate, take into account the following types of costs:
 - (a) providing information or documents;
 - (b) non-executive staff costs;
 - (c) premises costs;
 - (d) human resources costs; and
 - (e) information technology costs;
 - (2) should consider the extent to which the cost of the additional administration is shared with the rest of its business; and
 - (3) should, where a type of cost is absent from the lists in (1) and at **■ MCOB 12.4.4R (1)**, before taking it into account, consider whether it is appropriate to do so.
- 12.4.8** **R** A *firm* must not impose a charge for a *payment shortfall* that is calculated as a proportion of the outstanding loan.

		<div> <div></div> <div>12.5</div> <div>Excessive charges: regulated mortgage contracts, home reversion plans and regulated sale and rent back agreements</div> </div>
12.5.1	R	A <i>firm</i> must ensure that any <i>regulated mortgage contract</i> , <i>home reversion plan</i> or <i>regulated sale and rent back agreement</i> that it enters into does not impose, and cannot be used to impose, excessive charges upon a <i>customer</i> .
12.5.2	R	A <i>firm</i> must ensure that its charges to a <i>customer</i> in connection with the <i>firm entering into</i> , making a further advance or further release on, <i>administering, arranging or advising on a regulated mortgage contract, home reversion plan or regulated sale and rent back agreement, or arranging or advising on a variation to the terms of a regulated mortgage contract, home reversion plan or regulated sale and rent back agreement</i> are not excessive.
12.5.3	G	<p>When determining whether a charge is excessive, a <i>firm</i> should consider:</p> <ol style="list-style-type: none"> (1) the amount of its charges for the services or products in question compared with charges for similar products or services on the market; (2) the degree to which the charges are an abuse of the trust that the <i>customer</i> has placed in the <i>firm</i>; and (3) the nature and extent of the disclosure of the charges to the <i>customer</i>.
12.5.4	G	<i>Mortgage lenders</i> are also subject to requirements relating to responsible lending (see ■ MCOB 11).
12.5.5	R	A <i>second charge lender</i> may only charge interest on charges applied to a <i>customer</i> for breach of a <i>second charge regulated mortgage contract</i> if the interest is simple interest.



12.6 Business loans and loans to high net worth mortgage customers: tailored provisions

- 12.6.1** G *Firms are reminded that, in relation to a regulated mortgage contract which is solely for a business purpose or is with a high net worth mortgage customer, who is not a consumer under an MCD regulated mortgage contract, in circumstances where ■ MCOB 7.7.1 R applies, if there is a new early repayment charge or a change to the existing early repayment charge, ■ MCOB 7.7.1 R(2) requires a firm to notify the customer within five business days of the maximum amount payable as an early repayment charge.*
- 12.6.2** G *Firms are also reminded that in accordance with ■ MCOB 1.2.3 R, they should comply in full with MCOB, but in doing so may opt to take account of all tailored provisions in MCOB that relate to loans solely for a business purpose or loans to high net worth mortgage customers.*



12.7 Home purchase plans

Who?

12.7.1

G

The FCA believes that *Principle 7* requires charges imposed by a *firm* on *customers* to be transparent and that imposing unfair or excessive charges is inconsistent with *Principle 6*.

Note: A *firm* should also have regard to its obligations under the *Unfair Terms Regulations* (for contracts entered into before 1 October 2015) or the *CRA* and may find material on the FCA website concerning the FCA consumer protection powers useful.

Chapter 13

Payment difficulties and reposessions: regulated mortgage contracts and home purchase plans



13.1 Application

Who?

13.1.1 R This chapter applies to a *firm* in a category listed in column (1) of the table in ■ MCOB 13.1.2 R in accordance with column (2) of that table.

13.1.2 R Table: This table belongs to ■ MCOB 13.1.1 R

(1) Category of firm	(2) Applicable section
<i>mortgage lender</i> , and a <i>firm</i> that was a <i>mortgage lender</i> before the sale of a <i>repossessed</i> property	MCOB 13.1-MCOB 13.3, except for MCOB 13.3.9 R to MCOB 13.3.11 G
<i>mortgage administrator</i> , and a <i>firm</i> that was a <i>mortgage administrator</i> before the sale of a <i>repossessed</i> property	whole chapter except for MCOB 13.8
<i>home purchase provider</i> , and a <i>firm</i> that was a <i>home purchase provider</i> before the sale of a <i>repossessed</i> property	As for a <i>mortgage lender</i>
<i>home purchase administrator</i> , and a <i>firm</i> that was a <i>home purchase administrator</i> before the sale of a <i>repossessed</i> property	As for a <i>mortgage lender</i> , plus: MCOB 13.6 and MCOB 13.8; and MCOB 13.4 and MCOB 13.5 in accordance with MCOB 13.8

13.1.2A R To the extent that a *rule* in this chapter does not already apply to *Gibraltar-based firms* as a result of ■ GEN 2.3.1R, it applies to them so far as the *rule* would have applied were it in effect before *IP completion day*.

What?

13.1.3 R This chapter applies with respect to *administering a regulated mortgage contract*, *administering a home purchase plan* and *administering a sale shortfall*.

13.1.4 R The requirements in this chapter will continue to apply to a *firm* after a *regulated mortgage contract* or *home purchase plan* has come to an end following the sale of a *repossessed* property. References in this chapter to "*customer*" will include references to a former *customer* as appropriate.

13.1.5 G The *FCA* expects a *firm* to treat a *sale shortfall* in the same way that it treats a *payment shortfall*.

- 13.1.6 **G** A *firm* may have entered into a mix of *regulated mortgage contracts* and *non-regulated mortgage contracts* with a *customer* secured on the same property. In such circumstances, if the *regulated mortgage contract* is in *arrears*, notwithstanding that the overall position in respect of the mortgages generally is not in *arrears*, the *firm* will need to comply with all the requirements of ■ MCOB 13 in respect to the *regulated mortgage contract*. Where this involves providing the *customer* with information, a *firm* should explain, if it is the case, that whilst the overall position on the mortgages is not in *arrears*, no action will be taken in respect of the *regulated mortgage contract*.
- 13.1.7 **G** If a *firm* has entered into more than one *regulated mortgage contract* or *home purchase plan* with the same *customer* relating to the same property, the *firm* may treat them all as one for the purposes of this chapter.



13.2 Purpose

- 13.2.1 **G** This chapter sets out obligations to help ensure that *customers* who have or may have payment difficulties, or who face a *sale shortfall*, receive appropriate information and support.
- 13.2.2 **G** There may be occasions where a *customer* enters into a *regulated mortgage contract* or *home purchase plan* with no intention of meeting his payment obligations. Where the intention is to defraud, this chapter does not prevent early action to recover sums due.

13.3 Dealing fairly with customers: policy and procedures

- 13.3.1** **R** (1) A *firm* must deal fairly with any *customer* who:
- (a) has or may have payment difficulties in respect of a *regulated mortgage contract* or *home purchase plan*;
 - (b) has a *sale shortfall*; or
 - (c) is otherwise in breach of a *home purchase plan*.
- (1A) For the purposes of ■ **MCOB 13**, a *customer* has or may have payment difficulties if:
- (a) the *customer* has a *payment shortfall*;
 - (b) the *customer* indicates to the *firm* that they are at risk of falling into *payment shortfall*; or
 - (c) the *firm* otherwise becomes aware that the *customer* may be at risk of falling into *payment shortfall*.
- (2) A *firm* must put in place, and operate in accordance with, a written policy (agreed by its respective *governing body*) and procedures for complying with (1). Such policy and procedures must reflect the requirements of ■ **MCOB 13.3.2A R** and ■ **MCOB 13.3.4A R**.
- (3) A *firm* must ensure that the effectiveness of any policies and procedures put in place further to paragraph (2), and the *firm's* compliance with them, is reviewed at appropriate intervals.

13.3.1-A **G** In the *FCA's* view, in order to comply with ■ **MCOB 13.3.1R**, *firms* should ensure that the review required by paragraph (3) includes consideration of the full extent of support provided to some *customers* under this chapter, and does not only assess individual *customer* interactions in isolation.

- 13.3.1A** **R** (1) Where a *customer* has a *payment shortfall* in relation to a *regulated mortgage contract* or *home purchase plan*, a *firm* must not attempt to process more than two direct debit requests in any one calendar month.
- (2) Where a *firm's* direct debit request, in respect of a *customer* who has a *payment shortfall* on a *regulated mortgage contract* or *home purchase plan*, has been refused, on at least one occasion in each of two consecutive months, due to insufficient funds, the *firm* must:

		<ul style="list-style-type: none"> (a) consider whether the method of payment remains suitable for the <i>customer</i>; (b) make reasonable efforts to contact the <i>customer</i> to discuss whether the method of payment remains suitable for the <i>customer</i>; and (c) not pass on any costs to the <i>customer</i> which were incurred as a consequence of presenting direct debit requests during this period of consideration.
13.3.1B	G	■ MCOB 13.3.1AR (2)(c) does not prevent a <i>firm</i> from attempting to process up to two direct debit requests in any one calendar month provided the <i>firm</i> has made reasonable efforts to contact the <i>customer</i> and the <i>customer</i> has failed to respond.
		Vulnerable customers
13.3.1C	R	A <i>firm</i> must establish and implement clear, effective and appropriate policies and procedures for the fair and appropriate treatment of <i>customers</i> whom the <i>firm</i> understands, or reasonably suspects, to be vulnerable.
13.3.1D	G	<ul style="list-style-type: none"> (1) In developing procedures and policies to comply with ■ MCOB 13.3.1CR, a <i>firm</i> should have regard to the FCA's Guidance for firms on the fair treatment of vulnerable customers (FG21/1) (https://www.fca.org.uk/publication/finalised-guidance/fg21-1.pdf). (2) In developing procedures and policies for dealing with <i>customers</i> who may not have the mental capacity to make financial decisions, a <i>firm</i> may wish to have regard to the principles outlined in the Money Advice Liaison Group (MALG) Guidelines "Good Practice Awareness Guidelines for Consumers with Mental Health Problems and Debt".
		Customers and payment difficulties: procedures
13.3.2	E	<ul style="list-style-type: none"> (1) [deleted] (2) [deleted]
13.3.2A	R	<p>A <i>firm</i> must, when dealing with any <i>customer</i> who has or may have payment difficulties:</p> <ul style="list-style-type: none"> (-1) where appropriate: <ul style="list-style-type: none"> (a) inform a <i>customer</i> that free and impartial money guidance and debt advice is available, including from <i>not-for-profit bodies</i>; (b) effectively communicate the potential benefits of accessing free and impartial money guidance and debt advice, and the range of channels through which it is available; and (c) signpost or refer the <i>customer</i> to suitable sources of free and impartial money guidance or debt advice; (1) make reasonable efforts to reach an agreement with a <i>customer</i> over the method of repaying any <i>payment shortfall</i> or <i>sale shortfall</i>, in the

		<p>case of the former having regard to the desirability of agreeing with the <i>customer</i> an alternative to taking possession of the property;</p> <p>(2) liaise, if the <i>customer</i> makes arrangements for this, with a third party source of advice regarding any <i>payment shortfall</i> or <i>sale shortfall</i>;</p> <p>(3) allow a reasonable time over which any <i>payment shortfall</i> or <i>sale shortfall</i> should be repaid, having particular regard to the need to establish, where feasible, a payment plan which is practical in terms of the circumstances of the <i>customer</i>;</p> <p>(4) grant, unless it has good reason not to do so, a <i>customer's</i> request for a change to:</p> <p>(a) the date on which the payment is due (providing it is within the same payment period); or</p> <p>(b) the method by which payment is made;</p> <p>and give the <i>customer</i> a written explanation of its reasons if it refuses the request;</p> <p>(5) where no reasonable payment arrangement can be made, allow the <i>customer</i> to remain in possession for a reasonable period to effect a sale; and</p> <p>(6) not repossess the property unless all other reasonable attempts to resolve the position have failed.</p>
13.3.3	G	<p>The requirement in ■ MCOB 13.3.1 R(2) for a written policy and procedures is intended to ensure that a <i>firm</i> has addressed the need for internal systems to deal fairly with any <i>customer</i> in financial difficulties. ■ MCOB 13.3.1 R(2) does not oblige a <i>firm</i> to provide <i>customers</i> with a copy of the written policy and procedures. Nor, however, does it prevent a <i>firm</i> from providing <i>customers</i> with either these documents or a more <i>customer</i>-orientated version.</p>
13.3.3A	R	<p>In complying with ■ MCOB 13.3.2A R, a <i>firm</i> must give a <i>customer</i> a reasonable period of time to consider any proposals for dealing with the payment difficulties.</p>
13.3.4	G	<p>(1) [deleted]</p> <p>(2) [deleted]</p>
13.3.4A	R	<p>In complying with ■ MCOB 13.3.1R(1) and ■ MCOB 13.3.2AR(6) in respect of <i>customers</i> who have or may have payment difficulties:</p> <p>(1) a <i>firm</i> must consider whether, given the individual circumstances of the <i>customer</i>, it is appropriate to do one or more of the following in relation to the <i>regulated mortgage contract</i> or <i>home purchase plan</i> with the agreement of the <i>customer</i>:</p> <p>(a) extend its term; or</p> <p>(b) change its type; or</p>

- (c) waive or defer payment of capital and/or interest due on the *regulated mortgage contract* or of sums due under the *home purchase plan* (including, in either case, on any *sale shortfall*); or
 - (ca) reduce the interest rate being charged to the *customer*, or apply simple interest instead of compound interest; or
 - (d) treat a *payment shortfall* as if it was part of the original amount provided (but a *firm* must not automatically capitalise a *payment shortfall* where the impact would be material); or
 - (e) make use of any Government forbearance initiatives in which the *firm* chooses to participate;
 - (2) a *firm* must give *customers* adequate information to understand the implications of any proposed arrangement and of not agreeing an arrangement. This information must include the potential impact on the *customer's* overall balance and how it will be reported to the *customer's* credit file.
 - (3) a *firm* must:
 - (a) take into account the effect of any potential arrangements on the *customer's* overall balance; and
 - (b) take reasonable steps to ensure that any arrangements with *customers* in *payment shortfall* remain appropriate.
- 13.3.4AA** R In ■ MCOB 13.3.4A R, the impact of a capitalisation would be material if, either on its own or taken together with previous automatic capitalisations, it increased:
- (1) the interest payable over the term of the *regulated mortgage contract* by £50 or more; or
 - (2) the contractual monthly repayment amount under the *regulated mortgage contract* by £1 or more.
- 13.3.4AB** G What is reasonable in any given case for the purposes of ■ MCOB 13.3.4AR(3)(b) will depend on the *customer's* circumstances and the nature of the arrangements, but this is likely to involve reviewing the arrangements at appropriate intervals and responding as necessary. It will also involve reacting appropriately to any relevant information the *firm* is otherwise made aware of, such as correspondence from a debt adviser.
- 13.3.4AC** G A *firm* should not renew arrangements with a *customer* on the same basis without considering whether this is appropriate.
- 13.3.4B** R A *firm* must make *customers* aware of the existence of any applicable Government schemes to assist borrowers in payment difficulties in relation to *regulated mortgage contracts*.
- 13.3.4C** G (1) *Firms* should note that the list of options to consider set out at ■ MCOB 13.3.4AR(1) is not exhaustive. The *FCA* would expect *firms* to be able to justify a decision to offer a particular option.

- (2) *Firms* should take into account that *customer* circumstances will vary and should therefore:
 - (a) ensure they employ a sufficient range of options to help *customers*;
 - (b) offer to engage with *customers* through a range of channels, changing the channel if necessary to enable *customers* to engage with them effectively; and
 - (c) be transparent with *customers* about the range of options they may consider and the communication channels available. This information should be set out clearly, including in a prominent location on *firm* websites.
- (3) *Firms* should take account of a *customer's* wider indebtedness. Where a *customer* indicates that they are having difficulty paying *priority debts* (other than payments under a *regulated mortgage contract* or a *home purchase plan*), *firms* should consider this and the consequences of the *customer* falling behind on those debts when considering potential arrangements for a *customer*.
- (4) Where possible, a *firm* should offer to provide to the *customer* a record of any income and expenditure assessment that the *firm* prepares while providing support under this chapter.

13.3.4D G In the *FCA's* view, although *firms* must not automatically capitalise a *payment shortfall* where the impact would be material, it may be appropriate to agree to capitalise a *payment shortfall* if:

- (1) the *firm* reasonably considers (taking into account the root cause of the *payment shortfall*) that the *customer* can afford the capitalised monthly payments;
- (2) other options to repay the *payment shortfall* more quickly have been considered; and
- (3) taking account of the *customer's* individual circumstances, the *firm* reasonably considers that capitalisation is in accordance with the *customer's* best interests.

13.3.5 G [deleted]

13.3.6 G In relation to adopting a reasonable approach to the time over which the *payment shortfall* or *sale shortfall* should be repaid, the *FCA* takes the view that the determination of a reasonable repayment period will depend upon the individual circumstances. In appropriate cases this will mean that repayments are arranged over the remaining term.

13.3.7 G In relation to granting a *customer's* request for a change to the payment date, a term that purported to allow a *firm* to change the payment date unilaterally might in any event contravene the *Unfair Terms Regulations* (for contracts entered into before 1 October 2015) or the *CRA*.

- 13.3.8** G *Firms* that propose to outsource aspects of *customer* relationships (including collection of debts or any other sums due) should note that and ■ **SYSC 8**, a firm cannot contract out its regulatory obligations and the *FCA* will continue to hold them responsible for the way in which this work is carried on.

Record keeping

- 13.3.9** R
- (1) A *mortgage lender* or *administrator* must make and retain an adequate record of its dealings with a *customer* who has or may have payment difficulties, or whose account has a *sale shortfall*, which will enable the *firm* to show its compliance with this chapter. That record must include a recording of all telephone conversations (including video calls) between the *firm* and the *customer* which discuss any amount in *arrears* or any amount subject to *payment shortfall* charges.
 - (2) A *mortgage lender* or *administrator* must retain the record required by (1) for three years from the date of the dealing.

- 13.3.10** G The record referred to in ■ **MCOB 13.3.9 R** should contain, or provide reference to, matters such as:

- (1) the date of first communication with the *customer* after the account was identified as having a *payment shortfall*;
- (2) in relation to correspondence issued to a *customer* with a *payment shortfall*, the name and contact number of the employee dealing with that correspondence, where known;
- (3) the basis for issuing tailored information in accordance with ■ **MCOB 13.7.1 R** in relation to a loan solely for a business purpose;
- (4) information relating to any new payment arrangements proposed;
- (5) the date of issue of any legal documents;
- (6) the arrangements made for sale after the *repossession* (whether legal or voluntary);
- (7) the date of any communication summarising the *customer's* outstanding debt after sale of the *repossessed* property; and
- (8) the date and time of each call for the purposes of ■ **MCOB 13.3.9R(1)**.

- 13.3.11** G For details of the standard expected of *firms* in relation to maintaining records, see ■ **MCOB 2.8** (Record keeping)

13.4 Arrears: provision of information to the customer of a regulated mortgage contract

- 13.4.1** **R** If a *customer* falls into *arrears* on a *regulated mortgage contract*, a *firm* must as soon as possible, and in any event within 15 *business days* of becoming aware of that fact, provide the *customer* with the following in a *durable medium*:
- (1) the current *MoneyHelper* information sheet “Problems paying your mortgage”;
 - (2) a list of the due payments either missed or only paid in part;
 - (3) the total sum of the *payment shortfall*;
 - (4) the charges incurred as a result of the *payment shortfall*;
 - (5) the total outstanding debt, excluding charges that may be added on redemption; and
 - (6) an indication of the nature (and where possible the level) of charges the *customer* is likely to incur unless the *payment shortfall* is cleared.
- 13.4.2** **G** (1) The *MoneyHelper* information sheet “Problems paying your mortgage” is available on the website <https://www.moneyhelper.org.uk> ; copies can also be obtained by calling 0800 138 7777.
- (2) [deleted]
- 13.4.3** **G** (1) A *firm* may provide the information in **■ MCOB 13.4.1 R** (2), (3), (4), (5) and (6) orally, for example by telephone, but must provide the information in a *durable medium* with a copy of the *MoneyHelper* information sheet “Problems paying your mortgage” within 15 *business days* of becoming aware of the *customer's* account falling into *arrears*.
- (2) Where a *firm* provides the information in **■ MCOB 13.4.1 R** when a *payment shortfall* occurs but before the *customer's* account falls into *arrears*, it need not repeat the provision of the information in **■ MCOB 13.4.1 R** when the *customer's* account falls into *arrears*.

Customers in arrears within the past 12 months

13.4.4

R

If a *customer's* account has previously fallen into *arrears* within the past 12 months (and at that time the *customer* received the disclosure required by ■ MCOB 13.4.1 R), the *arrears* have been cleared and the *customer's* account falls into *arrears* on a subsequent occasion a *firm* must either:

- (1) issue a further disclosure in compliance with ■ MCOB 13.4.1 R; or
- (2) provide, as soon as possible, and in any event within 15 *business days* of becoming aware of the further *arrears*, a statement, in a *durable medium*, of the payments due, the actual *payment shortfall*, any charges incurred and the total outstanding debt excluding any charges that may be added on redemption, together with information as to the consequences, including *repossession*, if the *payment shortfall* is not cleared.

Steps required before action for repossession

13.4.5

R

Before commencing action for *repossession*, a *firm* must:

- (1) provide a written update of the information required by ■ MCOB 13.4.1 R(2), (3), (4), (5) and (6);
- (2) ensure that the *customer* is informed of the need to contact the local authority to establish whether the *customer* is eligible for local authority housing after his property is *repossessed*; and
- (3) clearly state the action that will be taken with regard to *repossession*.

13.4A Data sharing with other charge holders

- 13.4A.1** **R**
- (1) If a *firm* commences legal proceedings against a *customer* in respect of a *regulated mortgage contract* or a *home purchase plan*, it must give notice of the commencement of the legal proceedings to all *persons* specified in ■ MCOB 13.4A.2 R at the time of their commencement, or as soon as reasonably practicable afterwards.
 - (2) If a *customer* voluntarily surrenders possession of their property to a *firm*, the *firm* must give all *persons* specified in ■ MCOB 13.4A.2 R notice of the surrender at the time it happens, or as soon as reasonably practicable afterwards.
 - (3) If a *customer* is placed in an *assisted voluntary sale process*, a *firm* must give all *persons* specified in ■ MCOB 13.4A.2 R:
 - (a) notice that the *customer* has entered an *assisted voluntary sale process* within ten working days from the date the *customer* entered the *assisted voluntary sale process*;
 - (b) notice of the proposed sale and details of the proposed sale price and method of sale at least ten working days before the date when the property is proposed to be offered for sale; and
 - (c) details of the sale price within no more than ten working days from the acceptance of an offer to purchase the property.

Relevant other charge holders

- 13.4A.2** **R**
- Notices and other details under ■ MCOB 13.4A.1 R are to be given to each *person* having a *legal or equitable mortgage* in the relevant property over which the *firm* has security under a *regulated mortgage contract* or a *home purchase plan*.

- 13.4A.3** **G**
- In complying with ■ MCOB 13.4A.2 R, a *firm* should make reasonable efforts to discover the existence of other charge holders at the start of the assisted voluntary sale/litigation process.

13.5

Dealing with a customer in arrears or with a sale shortfall on a regulated mortgage contract

Statements

13.5.1 **R** Where an account is in *arrears* (whether or not the shortfall is attracting charges), a *firm* must provide the *customer* with a regular written statement (at least once a quarter) of the payments due, the actual *payment shortfall*, the debt and, where relevant, the charges incurred.

13.5.2 **G**

- (1) For the purpose of ■ **MCOB 13.5.1 R**, charges include all charges and fees levied directly as a result of the account falling into *arrears*. This includes charges such as monthly administrative charges, legal fees and interest.
- (2) In determining the frequency for providing statements in accordance with ■ **MCOB 13.5.1 R**, a *firm* should have regard to the application of new charges and the number of transactions on the *customer's* account.
- (3) [deleted]
- (4) Information provided should cover the period since the last statement. *Firms* may use the annual statement to comply with ■ **MCOB 13.5.1 R**, in which case the annual statement will need to be supplemented to include the actual *payment shortfall*.

Pressure on customers

13.5.3 **R** A *firm* must not put pressure on a *customer* through excessive telephone calls or correspondence, or by contact at an unreasonable hour.

13.5.4 **G** In ■ **MCOB 13.5.3 R**, a reasonable hour will usually fall between 8 am and 9 pm. *Firms* should also have regard to the circumstances of the *customer* and any knowledge they have of the *customer's* work pattern or religious faith which might make it unreasonable to contact the *customer* during these hours.

13.5.5 **G** In ■ **MCOB 13.5.3 R**, putting pressure on a *customer* includes:

- (1) the use of documents which resemble a court summons or other official document, or are intended to lead the *customer* to believe

that they come from or have the authority of a court (which might in any event constitute a criminal offence under the County Courts Act 1984 or section 40 of The Administration of Justice Act 1970); and

- (2) the use of documents containing unfair, unclear or misleading information intended to coerce the *customer* into paying. A *firm* should also have regard to Section 1 of the Malicious Communications Act 1988 which establishes a criminal offence in respect of letters sent which convey a threat or false information with intent to cause distress or anxiety.

13.5.6

G

In relation to ■ MCOB 13.5.3 R, a *firm* should also have regard to the general law, including *data protection legislation*, on the disclosure of information to third parties.

13.6 Repossessions

- 13.6.1** **R** A *firm* must ensure that, whenever a property is *repossessed* (whether voluntarily or through legal action) and it administers the *regulated mortgage contract* or *home purchase plan* in respect of that property, steps are taken to:
- (1) market the property for sale as soon as possible; and
 - (2) obtain the best price that might reasonably be paid, taking account of factors such as market conditions as well as the continuing increase in the amount owed by the *customer*.
- 13.6.2** **G** In **■ MCOB 13.6.1 R** it is recognised that a balance has to be struck between the need to sell the property as soon as possible, to reduce or remove the outstanding debt, and other factors which may prompt the delay of the sale. These might include market conditions (explicitly referred to in **■ MCOB 13.6.1 R(2)**) but there may be other legitimate reasons for deferring action. This could include the expiry of a period when a grant is repayable on re-sale, or the discovery of a title defect that needs to be remedied if the optimal selling price is to be achieved.
- If the proceeds of sale are less than the amount due**.....
- 13.6.3** **R** A *firm* must ensure that, as soon as possible after the sale of a *repossessed* property, if the proceeds of sale are less than the amount due under the *regulated mortgage contract* or *home purchase plan*, the *customer* is informed in a *durable medium* of:
- (1) the *sale shortfall*; and
 - (2) where relevant, the fact that the *sale shortfall* may be pursued by another company (for example, a mortgage indemnity insurer).
- 13.6.4** **R**
- (1) If the decision is made to recover the *sale shortfall*, the *firm* must ensure that the *customer* is notified of this intention.
 - (2) The notification referred to in (1) must take place within five years of the date of the sale (if the *regulated mortgage contract* or *home purchase plan* is subject to Scottish law) or within six years (in all other cases).

- 13.6.5** **G** A *firm* is not required to recover a *sale shortfall*. A *firm* may not wish to recover the *sale shortfall* in some situations, for example where the sums involved make action for recovery unviable.

If the proceeds of sale are more than the amount due.....

- 13.6.6** **R** A *firm* must ensure that, on the sale of a *repossessed* property, if the proceeds of sale are more than the amount due under the *regulated mortgage contract* or *home purchase plan*, reasonable steps are taken, as soon as possible after the sale, to inform the *customer* in a *durable medium* of the surplus and, subject to the rights of any subsequent mortgage or charge holders, to pay it to him.

13.7 Business loans and loans to high net worth mortgage customers: tailored provisions

- 13.7.1** **R** Where the *regulated mortgage contract* is for a business purpose or is with a *high net worth mortgage customer*, a *firm* may as an alternative to **■ MCOB 13.4.1 R(1)** provide the following information in a *durable medium* instead of the *MoneyHelper* information sheet “Problems paying your mortgage”:
- (1) details of the consequences if the *payment shortfall* is not cleared;
 - (2) a description of the options available to the *customer* for clearing the *payment shortfall*; and
 - (3) (in the case only of loans for a business purpose) details of sources of fee-free advice for business *customers*.
- 13.7.2** **G** *Firms* are reminded that in accordance with MCOB 1.2.3R, they should comply in full with *MCOB*, but in doing so may opt to take account of all tailored provisions in *MCOB* that relate to loans solely for a business purpose or loans to *high net worth mortgage customers*. Therefore, a *firm* may only follow the relevant tailored provisions in **■ MCOB 13.7**, if it also follows all other relevant tailored provisions in *MCOB*. In either case, the rest of *MCOB* applies in full.

13.8 Home purchase plans

13.8

Dealing fairly with customers: policy and procedures

Note: The rules on establishing and applying a policy and procedures for dealing fairly with *customers* apply (see ■ MCOB 13.3).

Arrears: provision of information to the customer

13.8.1

R

If a *customer* falls into *arrears*, a *firm* must provide the *customer* with adequate information about the *arrears* in a *durable medium*:

- (1) as soon as practicable after becoming aware of that fact;
- (2) at quarterly intervals; and
- (3) before commencing action for *repossession*.

13.8.2

G

A *firm* may want to refer to the provisions on the information to be provided to a mortgage customer in relation to *arrears* for guidance (see ■ MCOB 13.4 and ■ MCOB 13.5).

Repossessions

Note: The rules regarding repossessions apply (see ■ MCOB 13.6).

Chapter 14

MCD article 3(1)(b) credit agreements

14.1 Handbook provisions which apply in respect of MCD article 3(1)(b) credit agreements

- 14.1.1** **G** The purpose of **■ MCOB 14** is to apply *rules* and *guidance* in *MCOB* (including, but not restricted to, *rules* that implement the *MCD*) to:
- (1) *MCD article 3(1)(b) creditors*; and
 - (2) *MCD article 3(1)(b) credit intermediaries*;
- and to identify *rules* and *guidance* in *CONC* that also apply, or may (subject to the election in **■ MCOB 14.1.5R**) apply, to them.
- 14.1.2** **R** A *firm* must treat a proposed *credit agreement* as an *MCD article 3(1)(b) credit agreement* if the *firm* knows, or has reasonable cause to suspect, that the purpose of the *credit agreement* is to acquire or retain property rights in land or in an existing or projected building.
- 14.1.3** **R** Subject to **■ MCOB 14.1.5R** and **■ MCOB 14.1.7R**:
- (1) *MCD article 3(1)(b) creditors* and *MCD article 3(1)(b) credit intermediaries* must comply with the following provisions in *MCOB*. These provisions apply with such changes as are necessary to apply them to *MCD article 3(1)(b) credit agreements* and activity undertaken in relation to those agreements (see **■ MCOB 14.1.4G**):
 - (a) **■ MCOB 1.2.19G** (identifying MCD credit agreements);
 - (b) **■ MCOB 2.3** (inducements);
 - (c) **■ MCOB 2.5A** (the customer's best interests);
 - (d) **■ MCOB 2A** (Mortgage Credit Directive) except for **■ MCOB 2A.1.4R**;
 - (e) **■ MCOB 3A.1** to **■ MCOB 3A.5** (financial promotions and communications with customers);
 - (f) **■ MCOB 3B** (MCD general information);
 - (g) **■ MCOB 4A.2** (adequate explanations);
 - (h) **■ MCOB 5A** (MCD pre-application disclosure);
 - (i) **■ MCOB 6A** (MCD disclosure at the offer stage);
 - (j) **■ MCOB 7.5** (mortgages: statements);
 - (k) **■ MCOB 7A** (additional MCD disclosure: start of contract and after sale);

- (l) ■ MCOB 7B (MCD: further advances);
 - (m) ■ MCOB 10A (MCD Annual Percentage Rate of Charge);
 - (n) ■ MCOB 11.6 (responsible lending and financing);
 - (o) ■ MCOB 11A (additional MCD responsible lending requirements);
 - (p) ■ MCOB 12.3 (early repayment charges);
 - (q) ■ MCOB 12.5 (excessive charges); and
 - (r) ■ MCOB 13 (payment difficulties and repossessions) except for
■ MCOB 13.3.9R;
- (2) *MCD article 3(1)(b) credit intermediaries* must additionally comply with the following provisions in *MCOB*. These provisions apply with such changes as are necessary to apply them to *MCD article 3(1)(b) credit agreements* and activity undertaken in relation to those agreements:
- (a) ■ MCOB 4.4A.1R(1) and (2) (initial disclosure requirements);
 - (b) ■ MCOB 4.4A.4R(1)(a) and (3) (initial disclosure requirements);
 - (c) ■ MCOB 4.4A.8R (1)(a), (c), (d) and (2)(e) (initial disclosure requirements); and
 - (d) ■ MCOB 4A.1 (additional disclosure by MCD mortgage credit intermediaries); and
- (3) *MCD article 3(1)(b) credit advisers* must additionally comply with the following provisions in *MCOB*. These provisions apply with such changes as are necessary to apply them to *MCD article 3(1)(b) credit agreements* and activity undertaken in relation to those agreements:
- (a) ■ MCOB 2A.1.4R (Mortgage Credit Directive);
 - (b) ■ MCOB 4.7A (advised sales) except for:
 - (i) ■ MCOB 4.7A.1G(2) to (4);
 - (ii) ■ MCOB 4.7A.11R to ■ MCOB 4.7A.14E; and
 - (iii) ■ MCOB 4.7A.24R to ■ MCOB 4.7A.25R; and
 - (c) ■ MCOB 4A.3 (record of recommendation).

14.1.4

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The changes that ■ MCOB 14.1.3R requires to be made to *rules* applied by that *rule* include the following:

- (1) any reference to 'land' includes a reference to property rights in an existing or projected building;
- (2) any reference to *regulated mortgage contract* or *MCD regulated mortgage contract* includes a reference to an *MCD article 3(1)(b) credit agreement*; and
- (3) any reference to *qualifying credit* includes a reference to an *MCD article 3(1)(b) credit agreement*.

14.1.5

R

An *MCD article 3(1)(b) creditor* or *MCD article 3(1)(b) credit intermediary* must elect to comply with either:

		<p>(1) ■ MCOB 3A.1 to ■ MCOB 3A.5 (financial promotions and communications with customers); or</p> <p>(2) ■ MCOB 3A.2, ■ MCOB 3A.5 and ■ CONC 3 (financial promotions and communications with customers) (except for ■ CONC 3.4, ■ CONC 3.5.3R to ■ CONC 3.5.10R, ■ CONC 3.6.6R, and ■ CONC 3.9);</p> <p>and having made an election, the <i>firm</i> must comply with the provisions with which it has elected to comply.</p>
14.1.6	G	<p>(1) A <i>firm</i> should generally make one election under ■ MCOB 14.1.5R for all of its <i>MCD article 3(1)(b) credit intermediation activity</i> or all of its lending under <i>MCD article 3(1)(b) credit agreements</i>, at any given time.</p> <p>(2) Where a <i>firm</i> wishes to make different elections for different types of <i>MCD article 3(1)(b) credit intermediation activity</i> or lending under <i>MCD article 3(1)(b) credit agreements</i>, it should maintain processes to ensure that the <i>rules</i> applicable to each type of activity and each agreement or <i>customer</i> are clearly identifiable to its staff and, on request, to <i>customers</i> and the <i>FCA</i>. Its processes should also ensure that each agreement or <i>customer</i> is dealt with in compliance with those <i>rules</i>.</p>
14.1.7	R	<p>The following provisions do not apply to an <i>MCD article 3(1)(b) creditor</i> or <i>MCD article 3(1)(b) credit intermediary</i> where the conditions in ■ CONC 1.2.10R(2) are fulfilled: ■ MCOB 7.5 (mortgages: statements) and ■ MCOB 13 (payment difficulties and repossessions) (except for ■ MCOB 13.3.1AR to ■ MCOB 13.3.1BG, ■ MCOB 13.3.2AR to ■ MCOB 13.3.8G, and ■ MCOB 13.6.1R to ■ MCOB 13.6.2G, which apply even where those conditions are fulfilled).</p>
14.1.8	G	<p>■ CONC 1.2.10R(1)(a) relates to high net worth borrowers; the purpose of ■ MCOB 14.1.7R is to enable a high net worth borrower under an <i>MCD article 3(1)(b) credit agreement</i> to waive the protections and remedies applicable to <i>regulated credit agreements</i>, except for those that implemented the <i>MCD</i>.</p>
14.1.9	G	<p><i>MCD article 3(1)(b) creditors</i> and <i>MCD article 3(1)(b) credit intermediaries</i> are also subject to certain provisions in <i>CONC</i>: see ■ CONC 1.2.8R.</p>

Chapter 15

P2P home finance activities

15.1 Handbook provisions which apply in respect of home finance transactions entered into via a P2P platform

- 15.1.1** **G** The purpose of **MCOB 15** is, where a *firm* is a *P2P platform operator* which carries on a *regulated activity* in relation to a *home finance transaction* and where the lender or provider does not require permission to enter into the transaction, to:
- (1) explain the application of *MCOB* provisions to the *firm*;
 - (2) apply to the *firm rules and guidance* in *MCOB* that would not otherwise apply, to ensure the protection provided under *MCOB* to the recipient of home finance is not affected by the status of the provider;
 - (3) make modifications to the way certain provisions of *MCOB* apply to the *firm*; and
 - (4) disapply specified *MCOB* provisions from the *firm*.
- 15.1.2** **G** The effect of **CONC 1.2.12R** is that a provision of *CONC* that would otherwise apply in relation to a *regulated mortgage contract* or a *home purchase plan* does not apply where the transaction is facilitated by a *P2P platform operator* and the lender or plan provider does not require permission to enter into it.

15.2 Guidance on the application of MCOB where agreements are facilitated by a P2P platform

15.2.1

G

- (1) Where a *home finance transaction* is entered into with the facilitation of a *firm* which is a *P2P platform operator*, the *firm* is likely to carry on an activity of the kind specified by article 25A, 25B, 25C or 25E of the *Regulated Activities Order* (arranging) and if so *MCOB* provisions applying to that activity will apply to the *firm*. In addition, a *firm* which is a *P2P platform operator* may carry on an activity of the kind specified by article 53A, 53B, 53C or 53D of the *Regulated Activities Order* (advising) and, if so, *MCOB* provisions applying to that activity will apply to the *firm*.
- (2) Where a lender requires permission under article 61(1) of the *Regulated Activities Order* to enter into a *regulated mortgage contract* (that is, where it carries on that activity by way of business and is not excluded or exempt) it will require that permission notwithstanding the fact that it does so with the facilitation of a *P2P platform operator*, and will be responsible for complying with relevant *MCOB rules*. Similarly, where a *person* requires permission under article 63B or 63F of the *Regulated Activities Order* to enter into a *home reversion plan* or a *home purchase plan*, it will require that permission notwithstanding the fact that it does so with the facilitation of a *P2P platform operator*, and will be responsible for complying with relevant *MCOB rules*. It would be open to such a lender or provider to outsource the performance of those obligations to the platform, having regard to the *guidance* on outsourcing in ■ [MCOB 1.2.1AG](#).
- (3) Under current legislation, any *person* who enters into a *regulated sale and rent back agreement* requires permission, unless they are a related *person* in relation to the agreement seller within the meaning of article 63J(4)(c) of the *Regulated Activities Order*, or excluded or exempt. However, it should be noted that the relevant legislative provision will cease to have effect on 1 January 2022.
- (4) To secure an appropriate degree of protection for *consumers*, where a *home finance transaction* is facilitated by a *P2P platform operator* and the lender or provider under that transaction does not fall within the definition of a *mortgage lender*, *home purchase provider*, *reversion provider* or *SRB agreement provider*, ■ [MCOB 1.2.22R\(1\)](#) applies to the *P2P platform operator* those provisions of *MCOB* that would apply to the lender or provider if it were a *mortgage lender*, *home purchase provider*, *reversion provider* or *SRB agreement provider*.

- (5) For the same reason, where a *regulated mortgage contract* or *home purchase plan* is administered by a *P2P platform operator* on behalf of a lender or provider who did not enter into the transaction by way of business, ■ MCOB 1.2.22R(2) applies to the *P2P platform operator* those provisions of *MCOB* that would apply to the administrator if the transaction had been entered into by way of business.
- (6) This chapter applies ■ MCOB 3A (financial promotions etc) to a *firm* which is a *P2P platform operator* in relation to a *home finance transaction*.
- (7) As set out in ■ MCOB 4.6.1G, a *consumer* may have a right to cancel a *distance contract* for services provided by a *P2P platform operator*.
- (8) ■ MCOB 5.6.113R to ■ 5.6.119G (payments made to a mortgage intermediary) are not relevant to a *mortgage intermediary* which is a *P2P platform operator* where the lender does not require permission for entering into a *regulated mortgage contract*. However, if there is a *mortgage intermediary* other than the *P2P platform operator* involved in the transaction, those provisions may apply to that intermediary, with the modifications set out in ■ MCOB 15.4.14R. The same applies in relation to similar provisions in ■ MCOB 9.4.119R to ■ 9.4.125G (payments to a lifetime mortgage intermediary), with the modifications set out in ■ MCOB 15.4.16R, and in ■ MCOB 9.4.168R to ■ MCOB 9.4.174G (payments to a reversion intermediary), with the modifications set out in ■ MCOB 15.4.17R.
- (9) The specified activities of administering a *home reversion plan* in article 63B of the *Regulated Activities Order* and administering a *regulated sale and rent back agreement* in article 63J of that Order apply whether or not the plan or agreement is entered into by way of business and so will be relevant to a *P2P platform operator* carrying on those activities in relation to those products.



15.3 Further provisions about the application of MCOB where agreements are facilitated by a P2P platform

- 15.3.1** **R** ■ MCOB 3A (financial promotions etc) applies to a *firm* which is a *P2P platform operator communicating or approving a financial promotion of a P2P agreement* which is a *home finance transaction* where the lender or provider does not require permission to enter into the transaction. It applies as though references to *qualifying credit* were references to agreements that would be *qualifying credit* but for the lender not carrying on *regulated activity* by *entering into or administering a regulated mortgage contract*.
- 15.3.2** **R** ■ MCOB 13 (payment difficulties and repossessions) applies to a *firm* which is a *P2P platform operator* in respect of *regulated mortgage contracts* or *home purchase plans*. It applies as though:
- (1) references to a *mortgage administrator* or a *home purchase administrator* include a *P2P platform operator*;
 - (2) references to *administering a regulated mortgage contract*, *administering a home purchase plan* and *administering a sale shortfall* include a *P2P platform operator* administering such an agreement or shortfall on behalf of a lender or plan provider. References expressing the same concept but using different tenses are similarly included; and
 - (3) references to a *firm* taking any action against a *customer* include where the *firm* takes action required by a security trustee holding rights for a lender or provider under a *regulated mortgage contract* or *home purchase plan*.



15.4 Modifications

General modifications

- 15.4.1

R

Where a provision of *MCOB* applies to a *firm* which is a *P2P platform operator* and requires the *firm* to refer to the identity of the *mortgage lender, home purchase provider, reversion provider or SRB agreement provider*, the provision may be satisfied by a statement that the loan, plan or agreement is provided by investors facilitated by the *P2P platform operator*.
- 15.4.2

R

Where a provision of *MCOB* applies to a *firm* which is a *P2P platform operator* and refers to the “*lender’s base mortgage rate*”, “*the lender’s standard variable rate*” or a similar phrase, the *firm* must refer to the *firm’s* base mortgage rate or standard variable rate, as the case may be.
- 15.4.3

R

Where a provision of *MCOB* applies to a *firm* which is a *P2P platform operator*, that provision applies as if:

(1) references to a *firm* entering into a *home finance transaction* (or any particular type or types of *home finance transaction*) with a *customer* include the *firm* which is the *P2P platform operator* facilitating a lender or provider entering into such a *home finance transaction* with a *customer*;

(2) references to a *firm* varying an existing *home finance transaction* (or any particular type or types of *home finance transaction*) include the *firm* which is the *P2P platform operator* varying such an agreement or plan on behalf of a lender or provider; and

(3) other references to a *mortgage lender, home purchase provider, reversion provider or SRB agreement provider* include the *P2P platform operator*.
- 15.4.4

R

(1) Where a *P2P platform operator* facilitates an arrangement under which a number of *persons* provide home finance to a single *customer* under separate *P2P agreements* comprising separate *home finance transactions*, the provisions of *MCOB* listed in the table in (2) apply as though a requirement for the *firm* to make a notification or disclosure in respect of a *home finance transaction* is a requirement for the *firm* to make a single notification or disclosure reflecting the aggregate terms and effects of all the *home finance transactions* taken together.

(2) This table belongs to (1).

MCOB provisions	Description
MCOB 2.6A.5AR	Protecting customer's interests: regulated sale and rent back agreements
MCOB 5.5.1R	Provision of illustrations: timing
MCOB 5.8	Pre-application disclosure: home purchase plans
MCOB 5.9	Pre-sale disclosure for regulated sale and rent back agreements
MCOB 6.4.1R	Mortgages: content of the offer document
MCOB 6.5.1R	Tariff of charges
MCOB 6.5.6R	Distance contracts with retail customers
MCOB 6.8.1R	Home purchase plans: offer document
MCOB 6.8.5R	Home purchase plans: distance contracts with retail customers
MCOB 6.9.3R	Regulated sale and rent back agreements: written pre-offer document: Stage One
MCOB 6.9.10R	Regulated sale and rent back agreements: written pre-offer document: Stage Two
MCOB 7.4.1R	Mortgages: disclosure at the start of the contract: disclosure requirements
MCOB 7.5.1R	Annual statement: requirement
MCOB 7.5.10R	Annual statement: additional content if tariff of charges has changed
MCOB 7.6.1R	Notification of payment changes and other material changes to terms and conditions
MCOB 7.6.2R	Notification where the regulated mortgage contract is sold, assigned or transferred
MCOB 7.6.5R	Notification where additional borrowing taken up
MCOB 7.6.7R	Further advances
MCOB 7.6.17R	
MCOB 7.6.18R	Rate switches
MCOB 7.6.22R	Addition or removal of a party to the contract
MCOB 7.6.28R	Changes to amount of each payment due
MCOB 7.8.1R	Home purchase plans: post-sale disclosure
MCOB 7.8.3R	Home purchase plans: annual statement

MCOB provisions	Description
MCOB 7.8.6R	Home purchase plans: tariff of charges
MCOB 7.9.1R	Post-sale disclosure for regulated sale and rent back agreements
MCOB 9.3.1R	Equity release: pre-application disclosure
MCOB 9.5.1R	Disclosure at the offer stage for equity release transactions
MCOB 9.6.1R	Disclosure at the start of the contract and after sale for equity release transactions
MCOB 9.7.2R	Disclosure at the start of the contract: lifetime mortgages: disclosure requirements where interest payments are required
MCOB 9.7.4R	Disclosure requirements where the regulated lifetime mortgage contract is a drawdown mortgage with fixed payments to the customer
MCOB 9.7.6R	Disclosure requirements where the regulated lifetime mortgage contract is a drawdown mortgage with variable payments to the customer
MCOB 9.7.8R	Disclosure requirements where a lump sum payment is made to the customer and interest is rolled up
MCOB 9.8.1R	Lifetime mortgages: annual statements: content
MCOB 9.8.3R	Lifetime mortgages: event driven information
MCOB 9.8.5R	Lifetime mortgages: further advances
MCOB 9.8.9R	Lifetime mortgages: changes to payments, amounts drawn down and amount owed
MCOB 9.8.10R	
MCOB 9.9.1R	Provision of statements: instalment reversion plans
MCOB 9.9.3R	Annual statement for instalment reversion plans: content
MCOB 9.9.4R	Annual statement for instalment reversion plans: additional content if tariff of charges has changed
MCOB 9.9.5R	Event-driven information for instalment reversion plans: material changes
MCOB 13.3.4AR(2)	Information to understand the implications of any proposed arrangement for dealing with payment difficulties

MCOB provisions	Description
MCOB 13.3.4BR	Information about government schemes to assist borrowers in payment difficulties
MCOB 13.4.1R	Arrears: provision of information to the customer of a regulated mortgage contract
MCOB 13.4.5R	Steps required before action for repossession: provision of updated information
MCOB 13.5.1R	Dealing with a customer in arrears or with a sale shortfall on a regulated mortgage contract: statements
MCOB 13.6.3R	Repossessions: if the proceeds of sale are less than the amount due: notification of intent to pursue shortfall
MCOB 13.6.4R	
MCOB 13.6.6R	If the proceeds of sale are more than the amount due: informing the customer
MCOB 13.8.1R	Home purchase plans: arrears: provision of information to the customer

- 15.4.5** **R** Where a provision of *MCOB* applies to a *firm* which is a *P2P platform operator* and requires the *firm* to provide an *illustration*, the *firm* may provide a *European Standardised Information Sheet (ESIS)* instead. The *ESIS* may diverge from the requirements of ■ **MCOB 5A** where it is necessary to do so to describe the aggregate terms and effects of all the *home finance transactions* comprising the arrangement with the *customer*, taken together.

Protecting customers' interests: home finance transactions

- 15.4.6** **R** ■ **MCOB 2.6A.-1R** (inclusion and reliance on certain interest terms in agreements) applies to a *firm* which is a *P2P platform operator* as if:
- (1) in place of the *firm* not relying on a term mentioned in that *rule* it referred to the *firm* not taking steps to exercise or enforce rights under such a term; and
 - (2) in place of referring to a term permitting the *firm* to change the rate of interest, it referred to a term permitting that rate to be changed.

- 15.4.7** **G** A *firm* which is a *P2P platform operator* may comply with ■ **MCOB 4.4A.1R** (1) and ■ **MCOB 4.4A.2R** by providing a *customer* with an explanation in simple, clear terms that the *firm* only offers loans facilitated on its platform.

- 15.4.8** **R** The "relevant market" referred to in ■ **MCOB 4.4A.2R** in relation to a *firm* which is a *P2P platform operator* is the market for *regulated mortgage contracts* offered by such platforms.

- p15.4.9
- R**
- In disclosing remuneration under ■ MCOB 4.4A.8R, a
- firm*
- which is a
- P2P platform operator*
- is not required to disclose any fees paid by a lender.
- 15.4.10 **R** The following *rules* apply subject to the modifications to ■ MCOB 4.4A set out elsewhere in ■ MCOB 15.4:
- (1) ■ MCOB 4.4A.9R (method of providing initial disclosure in all cases);
 - (2) ■ MCOB 4.4A.12R (timing of initial disclosure in all cases);
 - (3) ■ MCOB 4.4A.18R (additional disclosure under distance contracts); and
 - (4) the *rules* in ■ MCOB 4.10 (home purchase plans: sales standards).
- 15.4.11 **G** The *guidance* in ■ MCOB 4.10 (home purchase plans: sales standards) should be read as modified as necessary to take account of the effect of ■ MCOB 15.4.10R on the *rules* in ■ MCOB 4.10.
- 15.4.12 **R** ■ MCOB 4.6A.1R (rolling up of fees etc. into loans) applies to a *firm* which is a *P2P platform operator* facilitating a *regulated mortgage contract* with the modification that, in addition to the *firm* not offering a *regulated mortgage contract* to a *customer*, the *firm* must also not facilitate the entry of a *customer* into a such a contract.
- 15.4.13 **R** ■ MCOB 5.5.1R (timing of provision of mortgage illustration) and ■ MCOB 5.8.1R (financial information statement: timing) apply to a *firm* which is a *P2P platform operator* on the basis that the application for that particular *regulated mortgage contract* or *home purchase plan* is made to the *firm*.
- 15.4.14 **R** Where ■ MCOB 5.6 applies to a *firm* which is a *P2P platform operator* facilitating a *regulated mortgage contract*, and the *illustration* is issued to the *customer* by, or on behalf of, a separate *mortgage intermediary*, references in ■ MCOB 5.6.113R to ■ 5.6.119G to a *mortgage lender* must be treated as referring to the *P2P platform operator*.
- 15.4.15 **R** ■ MCOB 6.4.5G (information about advice provided by mortgage intermediary) applies to a *firm* which is a *P2P platform operator* as if the references to the *mortgage lender* are references to the *P2P platform operator* and references to a *mortgage intermediary* are references to a *person* other than the *P2P platform operator*.
- 15.4.16 **R** Where ■ MCOB 9.4 applies to a *firm* which is a *P2P platform operator* facilitating a *lifetime mortgage*, and the *illustration* is issued to the *customer* by, or on behalf of, a separate *mortgage intermediary*, references in ■ MCOB 9.4.119R to ■ 9.4.125G to a *mortgage lender* must be treated as referring to the *P2P platform operator*.
- 15.4.17 **R** Where ■ MCOB 9.4 applies to a *firm* which is a *P2P platform operator* facilitating a *home reversion plan*, and the *illustration* is issued to the

customer by, or on behalf of, a separate *reversion intermediary*, references in ■ MCOB 9.4.168R to ■ 9.4.174R to a *reversion provider* must be treated as referring to the *P2P platform operator*.

15.4.18

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Where ■ MCOB 11.8 (customers unable to change contract, plan or provider) applies in relation to a *regulated mortgage contract* or *home purchase plan* facilitated by a *P2P platform operator*, ■ MCOB 11.8.1E applies as if the reference to a *customer* being unable to enter into a new *regulated mortgage contract* or *home purchase plan* or vary the terms of the existing *regulated mortgage contract* or a *home purchase plan*, with the existing or a new *mortgage lender* or *home purchase provider*, is a reference to a *customer* being unable to enter into a new *regulated mortgage contract* or *home purchase plan* or vary the terms of an existing *regulated mortgage contract* or *home purchase plan*, which is facilitated by the platform.

15.5 MCOB provisions disapplied from P2P platform operators

15.5.1 **R** The *rules* in the following provisions of *MCOB* do not apply to an *MCD mortgage credit intermediary*, where that *firm* is a *P2P platform operator* facilitating a *regulated mortgage contract* where the lender does not require permission to enter into the contract:

- (1) ■ **MCOB 2A** (Mortgage Credit Directive);
- (2) ■ **MCOB 3A.5** (MCD financial promotions);
- (3) ■ **MCOB 3B** (MCD general information);
- (4) ■ **MCOB 4.4A.4R** (range of products);
- (5) ■ **MCOB 4A** (additional MCD advising and selling standards);
- (6) ■ **MCOB 5.6.113R** to ■ **5.6.117R** (payments to mortgage intermediaries) do not apply to a *mortgage intermediary* which is a *P2P platform operator* where the lenders under *regulated mortgage contracts* entered into by a particular borrower do not require permission for entering into *regulated mortgage contracts*. In this case Section 14 of the illustration must be renumbered 13;
- (7) ■ **MCOB 5A** (MCD pre-application disclosure);
- (8) ■ **MCOB 6A** (MCD disclosure at the offer stage);
- (9) ■ **MCOB 7A** (additional MCD disclosure: start of contract and after sale); and
- (10) ■ **MCOB 11A** (additional MCD responsible lending requirements).

15.5.2 **G** (1) The *guidance* in the provisions of *MCOB* listed in ■ **MCOB 15.5.1R** is not relevant in relation to an *MCD mortgage credit intermediary*, where that *firm* is a *P2P platform operator* facilitating a *regulated mortgage contract* where the lender does not require permission to enter into the contract.

(2) Similarly, the following *guidance* is not relevant in relation to such an *MCD mortgage credit intermediary*:

- (a) ■ MCOB 4.4A.3G, ■ 4.4A.3AG, ■ 4.4A.5G and ■ 4.4A.6G (range of products); and
- (b) ■ MCOB 5.6.118G and ■ 5.6.119G (payments to mortgage intermediaries) (see ■ MCOB 15.5.1R(6)).

15.5.3

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MCOB TP 1 MCD Transitional Provisions

(1)	(2) Material to which the trans- itional provision applies	(3)	(4) Transitional provision	(5) Trans- itional provi- sion: dates in force	(6) Hand- book pro- vision: coming into force
1	[deleted]		[deleted]	Expired	[deleted]
2	[deleted]		[deleted]	Expired	[deleted]
3	[deleted]		[deleted]	Expired	[deleted]
4	[deleted]		[deleted]	Expired	[deleted]
5	[deleted]		[deleted]	Expired	[deleted]
6	[deleted]		[deleted]	Expired	[deleted]
7	[deleted]		[deleted]	Expired	[deleted]
8	[deleted]		[deleted]	Expired	[deleted]
9 [FCA]	MCOB 5.6.9 R and MCOB 9.4.13 R	R	Expired		
10 [FCA]	MCOB 4 Annex 1, MCOB 4 Annex 2, MCOB 5 Annex 1, MCOB 8 Annex 1	R	Expired		

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
	and MCOB 9 Annex 1				
11 [FCA]	MCOB 4.4.1 R, MCOB 4.4.7 R and MCOB 4.10.2 R	R	Expired		
12 [FCA]	MCOB 5.6.2 R, MCOB 5.6.5 R, MCOB 5.6.65 R, MCOB 5.6.121 R, MCOB 5.6.145 R and MCOB 5 Annex 1	R	Expired		
13 [FCA]	MCOB 13.3.9 R	R	Expired		
14 [FCA]	MCOB 5.6.2 R, MCOB 5.6.65 R, MCOB 5.6.145 R and MCOB 5 Annex 1	R	Expired		
15 [FCA]	MCOB 9.4.2 R, MCOB 9 Annex 1 and MCOB 9 Annex 2	R	Expired		
16 [FCA]	MCOB 13.4.1 R (1)	R	Expired		
17	MCOB 4.4.1 R, MCOB 4.10.2 R	R	Expired		
18	MCOB 4.4.1 R, MCOB 4.10.2 R	R	Expired		
19	MCOB 4.8A	R	Expired		
20	MCOB TPs 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 53 and 55	G	[expired]		
21	MCOB TPs 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 53 and 55	R	[expired]		
22	MCOB 2A.1	R	[expired]		
23	MCOB TP 22	G	[expired]		

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
24	MCOB 2A.3, MCOB 7A.4 MCOB 5A, MCOB 6A, MCOB 7B and MCOB 10A	R	[expired]		
25	MCOB TP 24	G	[expired]		
26	MCOB 3A and MCOB 10A		[expired]		
27	MCOB TP 26	G	[expired]		
28	MCOB 3B	R	[expired]		
29	MCOB TP 28	G	[expired]		
30	MCOB 4.4A.4R (1)(a) and (3), MCOB 4.4A.8R (1)(c) and (d), MCOB 4.4A.8R (2)(e) and MCOB 4A.1	R	[expired]		
31	MCOB TP 30	G	[expired]		
32	MCOB 4.7A.15 R, MCOB 4.7A.21 G, MCOB 4.8A.7 R and MCOB 11A	R	[expired]		
33	MCOB TP 32	G	[expired]		
34	MCOB 4A.2	R	[expired]		
35	MCOB TP 34	G	[expired]		
36	MCOB 4.4A.4R (3) and MCOB 4A.2	R	[expired]		
37	MCOB TP 36	G	[expired]		
38	MCOB 5A, MCOB 6A and MCOB 10A	R	[expired]		
39	MCOB TP 39	G	[expired]		
40	MCOB 5A, MCOB 6A, MCOB 7B, MCOB 7.6.18R to MCOB 7.6.26G, MCOB 7.6.31R to MCOB 7.6.36G and MCOB 10A	R	[expired]		
41	MCOB TP 40	G	[expired]		
42	MCOB (all)	R	[expired]		
43	MCOB TP 42	G	[expired]		
44	MCOB TP 42	G	[expired]		
45	MCOB 5A, MCOB 6A and MCOB 7B	R	A firm that is an MCD mortgage lender or MCD mortgage credit intermediary may provide an illustration instead of an ESIS for an MCD regulated mortgage contract that	From 21 March 2016 until 21 March 2019	21 March 2016

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
			is not a <i>second charge regulated mortgage contract</i> . [Note: article 14(5) of the <i>MCD</i>]		
46	MCOB 5A, MCOB 6A and MCOB 7B	R	A <i>firm</i> that applies TP 45 must also provide the information in (1), (2) and either (3)(a) or (3)(b) below: (1) for a <i>foreign currency loan</i> , the warning and illustrative example required by section 6 of MCOB 5A Annex 1 and MCOB 5A Annex 2, 8.6R; (2) the reflection period required by MCOB 6A.3.4R(1) and (2), section 11 of MCOB 5A Annex 1 and MCOB 5A Annex 2, 13.1R; and (3) where the <i>borrowing rate</i> is variable: (a) the warning and the additional <i>APRC</i> required by section 4 of MCOB 5A Annex 1R and MCOB 5A Annex 2, 6.2R to 6.8R, and the maximum instalment illustration required by section 6 of MCOB 5A Annex 1R and MCOB 5A Annex 2, 8.5R; or (b) the information set out in (a), but reading references to " <i>APRC</i> " as references to " <i>APR</i> "	From 21 March 2016 until 21 March 2019	21 March 2016
47	MCOB 5A, MCOB 6A and MCOB 7B	R	A <i>firm</i> must provide the information required by TP 46 no later than when it provides the <i>illustration</i> .	From 21 March 2016 until 21 March 2019	21 March 2016
48	MCOB 5A, MCOB 6A and MCOB 7B	R	A <i>firm</i> may provide the information required by MCOB TP 46 either within the <i>illustration</i> or separately in a <i>durable medium</i> . Where a <i>firm</i> provides that information within the <i>illustration</i> , it should either add the information within the most relevant section of the <i>illustration</i> or it should add a new section which should be marked "[number of the preceding section]A" to identify the additional information.	From 21 March 2016 until 21 March 2019	21 March 2016
49	MCOB 5A, MCOB 6A and MCOB 7B	R	Where a <i>firm</i> provides an additional <i>APRC</i> in accordance with TP 46R(3) above, the <i>firm</i> is not required to comply with MCOB 5.6.59 R (1)(g) and MCOB 5.6.59 R (1)(h).	From 21 March 2016 until 21 March 2019	21 March 2016

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
50	MCOB 5A, MCOB 6A and MCOB 7B	R	Where a <i>firm</i> applies MCOB TP 45, MCOB 5.6.34 R (3) has effect with the following amendment: " 'The overall cost for comparison is [insert the APR]% APR' or 'The APRC applicable to your loan is [APRC]'."	From 21 March 2016 until 21 March 2019	21 March 2016
51	MCOB 5A, MCOB 6A and MCOB 7B	R	A <i>firm</i> may cease to apply MCOB TP 45 at any time,	From 21 March 2016 until 21 March 2019	21 March 2016
52		R	MCOB 2A.6.1 R does not apply to information provided for a contract entered into before 21 March 2016 that would be an <i>MCD regulated mortgage contract</i> if it were entered into on, or after, 21 March 2016	From 21 March 2016 indefinitely	21 March 2016
53	MCOB 14	R	[expired]		
54	MCOB TP 1.53	G	(1) [expired]		
			(2) [expired]		
			(3) [expired]		
55	MCOB TP 1.20 to TP 1.53	R	[expired]		
56	MCOB 5 Annex 1R	R	[expired]		
57	MCOB 5 Annex 1R	R	[expired]		
58	MCOB 5 Annex 1R	G	[expired]		
59	MCOB 5A Annex 2R	R	A <i>firm</i> that is an <i>MCD mortgage lender</i> , when carrying out a direct sale of an <i>MCD regulated mortgage contract</i> , may provide the content in Section 2 of the ESIS ("Credit intermediary") in addition to that in Section 1 ("Lender").	From 23 September 2016 until 21 March 2019	23 September 2016

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MCOB TP 4 Other Transitional Provisions

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provisions: coming into force
1	MCOB 2.9.1R(1) to (3)	R	<p>A <i>firm</i> need not comply with MCOB 2.9.1R(1) to (3) in relation to an automatic renewal of an agreement for an optional additional product which was entered into on or before 31 March 2016 provided:</p> <p>(1) the automatic renewal of the agreement is on substantially the same terms. The phrase “on substantially the same terms” is to be interpreted in the same way as in MCOB 2.9.1R(10)(b) and (c);</p> <p>(2) on the occasion of the first automatic renewal on or after 1 April 2016, the <i>firm</i> takes reasonable steps to ensure that the <i>customer</i> is informed:</p> <p>(a) that the renewal of the agreement is optional;</p> <p>(b) that the <i>customer</i> may elect not to renew the agreement; and</p> <p>(c) of the effect of the non-renewal of the agreement, if any, on the <i>home finance transaction</i>; and</p> <p>(3) the procedure to be used by <i>customers</i> for electing not to renew the agreement pays due regard to the interests of <i>customers</i> and treats them fairly.</p>	From 1 April 2016	On 1 April 2016
2	MCOB 9.4, MCOB 9 Annex 1R	R	[expired]		
3	MCOB TP 4(2)	G	The Direction referred to in MCOB TP 4(2) modifies <i>rules</i> relating to <i>lifetime mortgages</i> which permit the <i>consumer</i> to switch from an interest-paying to an interest roll-up basis. TP 4 (2) allows a <i>firm</i> to which the Direction applied a transitional period during which to amend its pre-sale disclosure materials so that they comply with the <i>rules</i> relating to those disclosures as amended from 26 January		

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provisions: coming into force
4	MCOB 4.8A.18	R	<p>2017, rather than with the <i>rules</i> as modified under the Direction.</p> <p>Notwithstanding the deletion of MCOB 4.8A.18R(3) on 31 January 2020, a <i>firm</i> must retain an adequate record of:</p> <p>(1) the policy required by MCOB 4.8A.17R, in the form in which that policy had effect immediately before 31 January 2020, for one year from that date; and</p> <p>(2) any previous policy which was in force in the period of one year ending on that date, for one year from the date on which that policy came into effect.</p>	31 January 2020 to 30 January 2021 (inclusive)	26 April 2014
5	MCOB 4.4A.1R(1A)	R	A <i>firm</i> may choose to comply with MCOB 4.4A.1R as if the changes to it made by the Mortgages (Advice) Instrument 2020 had not been made.	31 January 2020 to 30 July 2020 (inclusive)	21 March 2016
6	MCOB 4.7A.23AR	R	A <i>firm</i> may choose to comply with MCOB 4.7A as if the insertion of MCOB 4.7A.23AR had not been made.	31 January 2020 to 30 July 2020 (inclusive)	26 April 2014
7	MCOB chapters 4, 5,6,9 and 13	R	A <i>firm</i> may choose to comply with MCOB chapters 4, 5, 6, 9 and 13 as if the changes to them made by the Money and Pensions Service (Consequential Amendments) Instrument 2021 had not been made.	26 November 2021 to 25 November 2022	26 November 2021

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MCOB TP 5 Transitional Provisions: Regulated mortgage contracts

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
1	MCOB 7.5.1R	R	[expired]		

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Schedule 1 Record keeping requirements

Sch 1.1 G

The aim of the guidance in the following table is to give the reader a quick overall view of the relevant record keeping requirements.

Sch 1.2 G

It is not a complete statement of those requirements and should not be relied on as if it were.

Sch 1.3 G

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
MCOB 1.2.9CR (1)	<i>A high net worth mortgage customer</i>	Evidence of satisfaction of definition of <i>high net worth mortgage customer</i>	When it is used or obtained	Three years from when obtained or, if later, used
MCOB 1.2.9CR (2)	<i>A high net worth mortgage customer</i>	Written statement confirming the <i>customer is a high net worth mortgage customer</i>	When it is used or obtained	Three years from when obtained or, if later, used
MCOB 1.2.9D R	A loan solely for a business purpose	Business plan	When it is used or obtained	Three years from when obtained or, if later, used

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
MCOB 1.2.9E R	<i>A professional customer</i>	Evidence of satisfaction of definition of <i>professional customer</i>	When it is used or obtained	Three years from when obtained or, if later, used
MCOB 4.4A.23 G	Disclosures	Appropriate records of disclosures required by section MCOB 4.4A	When disclosure made	As required by SYSC 9
MCOB 4.6.11 R	Notice of cancellation	A record of the fact that notice has been given (including the original notice instructions and a copy of any receipt of notice issued)	When the <i>firm</i> first becomes aware that notice has been served	Three years

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
MCOB 4.7A.25R (1)(a)	Suitability of <i>regulated mortgage contracts</i>	<i>Customer</i> information obtained for the purposes of assessing suitability of a <i>regulated mortgage contract</i>	When advice given	Three years
MCOB 4.7A.25R (1)(b)	Suitability of <i>regulated mortgage contracts</i>	An explanation of why the <i>firm</i> has concluded its advice is suitable	When advice given	Three years
MCOB 4.7A.25R (1)(c)	Rolling-up of fees or charges into loan	The <i>customer's</i> positive choice to add fees or charges to the sum advanced	When choice made	Three years
MCOB 4.7A.25R(1)(d)	Suitability of <i>regulated mortgage contracts</i>	An explanation of why the <i>firm</i> has not recommended a cheaper <i>regulated mortgage contract</i>	When explanation given	Three years
MCOB 4.8A.18R (1)(a)	<i>Execution-only sales of regulated mortgage contracts</i>	Information provided by the <i>customer</i> about the <i>regulated mortgage contract</i> he wishes to purchase.	The date a <i>regulated mortgage contract</i> was entered into or <i>arranged</i>	Three years
MCOB 4.8A.18R (1)(b)	<i>Execution-only sales of regulated mortgage contracts</i>	The warning to the <i>customer</i> regarding their lack of protection of the rules on assessing suitability	The date a <i>regulated mortgage contract</i> was entered into or <i>arranged</i>	Three years
MCOB 4.8A.18R (1)(c)	<i>Execution-only sales of regulated mortgage contracts</i>	The <i>customer's</i> confirmation of his positive election to proceed with an <i>execution-only sale</i>	The date a <i>regulated mortgage contract</i> was entered into or <i>arranged</i>	Three years

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
MCOB 4.8A.18R (1)(d)	<i>Execution-only sales of regulated mortgage contracts</i>	Details of advice rejected.	The date a <i>regulated mortgage contract</i> was entered into or <i>arranged</i>	Three years
MCOB 4.10.9B R	<i>Execution-only sales of home purchase plans</i>	Information provided by the <i>customer</i> about the <i>home purchase plan</i> he wishes to purchase; the warning to the <i>customer</i> in a <i>durable medium</i> regarding his lack of protection of the rules on assessing suitability; the <i>customer's</i> confirmation of his positive election to proceed with an <i>execution-only sale</i> .	The date a <i>home purchase plan</i> was entered into or <i>arranged</i>	Three years
		The <i>firm's</i> policy for managing <i>execution-only sales</i>	When the policy is made	One year from when the policy is changed
MCOB 4.10.13R (1)(a)	<i>Suitability of home purchase plans</i>	<i>Customer</i> information obtained for the purposes of assessing suitability of a <i>home purchase plan</i>	When advice given	Three years
MCOB 4.10.13R (1)(b)	<i>Suitability of home purchase plans</i>	An explanation of why the <i>firm</i> has concluded its advice is suitable	When advice given	Three years
MCOB 4.10.13R (1)(c)	<i>Advice on home purchase plans</i>	Any advice rejected, including the reasons rejected and details of any <i>home purchase plan</i> the <i>customer</i> has proceeded with as an <i>execution-only sale</i>	When advice given	Three years

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
MCOB 4.11.8 R	Customer information on which an assessment of the affordability and appropriateness for a <i>regulated sale and rent back agreement</i> was based	Customer information on his income, expenditure, resources, needs, objectives and individual circumstances	The date on which the <i>firm</i> assessed suitability	Five years, or one year after the end of the fixed term of the tenancy agreement, if later
MCOB 5.4.19R	Each <i>illustration</i> a <i>firm</i> issues to a <i>customer</i> where the <i>customer</i> applies for that particular <i>regulated mortgage contract</i>	The Key facts illustrations (KFI) issued	The date the <i>customer</i> applies for the particular <i>regulated mortgage contract</i>	One year
MCOB 5.4.21R	Each KFI retained	Detail of: the date the KFI was issued; the date on which the <i>customer</i> applied for the <i>regulated mortgage contract</i> ; and the medium through which the KFI was issued	The date the <i>customer</i> applies for the particular <i>regulated mortgage contract</i>	One year
MCOB 5.9.2R	Each pre-sale disclosure	A record of the main terms of the <i>regulated sale and rent back agreement</i>	The date on which the disclosure is made	The longer of a period of one year from the end of the fixed term of the tenancy or five years from the date of the disclosure

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
MCOB 5.9.8R	Provider information	A record of the contact details of the provider, making it clear whether it is a <i>SRB agreement provider</i> or an <i>unauthorised SRB agreement provider</i>	The date on which the <i>regulated sale and rent back mediation activity</i> is carried on	The longer of one year, or one year from the end of the fixed term of the tenancy under the <i>regulated sale and rent back agreement</i>
MCOB 6.4.3R(1)	Offer document	Each <i>offer document</i> issued to the <i>customer</i>	The date on which the <i>firm</i> issues the <i>offer document</i> to the <i>customer</i>	One year
MCOB 6.4.3R(2)	Tariff of charges	A copy of the tariff of charges issued with, or as part of the <i>offer document</i>	The date on which the <i>firm</i> issues the tariff of charges to the <i>customer</i>	One year
MCOB 6.4.3R(3)	Supplemental information relating to <i>mortgage credit cards</i>	Information explaining that rights associated with a traditional credit card do not apply,	The date on which the <i>firm</i> issues the information to the <i>customer</i>	One year

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
<i>MCOB 6.9.11R</i>	Each written pre-offer document (Stage One) required under <i>MCOB 6.9.3R</i>	A record of the main terms of the proposed <i>regulated sale and rent back agreement</i>	The date on which the document is produced	The longer of a period of one year from the end of the fixed term of the tenancy under the <i>regulated sale and rent back agreement</i> or five years from the date of the written pre-offer document
<i>MCOB 6.9.11R</i>	Each written offer document for signing (Stage Two) required under <i>MCOB 6.9.10R (1)</i>	A record of the contents of the documents and the cooling-off period	The date on which the document is produced	The longer of a period of one year from the end of the fixed term of the tenancy under the <i>regulated sale and rent back agreement</i> or five years from the date of the written offer document
<i>MCOB 7.4.2R</i>	Start of contract disclosure	The amount of the first and subsequent payments; the date	The date on which	One year

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
		and method of collection of the first and subsequent payments; details of insurance products and any repayment vehicle purchased through the <i>firm</i> , of the first premium payable and whether this is to be collected with the mortgage payment; detail of the repayment method, and if interest only a reminder to the <i>customer</i> to maintain a suitable repayment vehicle; what to do if the account falls into <i>arrears</i> ; information about linked borrowing or savings available and whether or not overpayments or underpayments are permitted.	the <i>firm</i> issues the information to the <i>customer</i>	
MCOB 8.3.1R(1)	Notice of cancellation	A record of the fact that notice has been given (including the original notice instructions and a copy of any receipt of notice issued)	When the <i>firm</i> first becomes aware that notice has been served	Three years
MCOB 8.5A.19R (1)(a)	Suitability of <i>equity release transactions</i>	<i>Customer</i> information obtained for the purposes of assessing suitability of an <i>equity release transaction</i>	When advice given	Three years
MCOB 8.5A.19R (1)(b)	Suitability of <i>equity release transactions</i>	An explanation of why the <i>firm</i> has concluded its advice is suitable	When advice given	Three years
MCOB 8.5A.19R (1)(c)	Advice on <i>equity release transactions</i>	Any advice rejected, including the reasons rejected and details of any <i>regulated mortgage contract</i> the <i>customer</i> has proceeded with	When advice given	Three years

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
		as an <i>execution-only sale</i>		
MCOB 8.5A.19R (1)(d)	Rolling-up of fees or charges into loan	The <i>customer's</i> positive choice to add fees or charges to the sum advanced	When choice made	Three years
MCOB 8.6A.9 R	<i>Execution-only sales of equity release transactions</i>	Information provided by the <i>customer</i> about the <i>equity release transaction</i> he wishes to purchase; the warning to the <i>customer</i> in a <i>durable medium</i> regarding his lack of protection of the rules on assessing suitability; the <i>customer's</i> confirmation of his positive election to proceed with an <i>execution-only sale</i> ; any advice from the <i>firm</i> which the <i>customer</i> rejected, including the reasons why it was rejected.	The date a <i>home purchase plan</i> was entered into or arranged	Three years
MCOB 9.3.1R	Each <i>illustration</i> a <i>firm</i> issues to a <i>customer</i> where the <i>customer</i> applies for that particular <i>equity release transaction</i>	The keyfacts illustrations (KFI) issued	The date the <i>customer</i> applies for the particular <i>equity release transaction</i>	One year
MCOB 9.3.1R	Each KFI retained	Detail of: the date the KFI was issued; the date on which the <i>customer</i> applied for the <i>equity release transaction</i> ; and the medium through which the KFI was issued	The date the <i>customer</i> applies for the particular <i>equity release transaction</i>	One year
MCOB 9.5.2R	<i>Offer document</i>	Each <i>offer document</i> issued to the <i>customer</i>	The date on which the <i>firm</i> issues the of-	One year

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
			<i>fer document to the customer</i>	
MCOB 9.5.2R	Tariff of charges	A copy of the tariff of charges issued with, or as part of the offer document	The date on which the <i>firm</i> issues the tariff of charges to the <i>customer</i>	One year
MCOB 9.5.2R	Supplemental information relating to <i>mortgage credit card</i>	Information explaining that rights associated with a traditional credit card do not apply	The date on which the firm issues the information to the <i>customer</i>	One year
MCOB 9.7.10R	Start of contract disclosure where interest payments are required	The amount of the first and subsequent payments; the date, frequency and method of collection of the first and subsequent payments; the net amount the <i>customer</i> will receive where interest is deducted from income and the method by which this will be paid; details of insurance products purchased through the <i>firm</i> , of the first premium payable and whether this is to be collected with the mortgage payment; confirmation that the <i>lifetime mortgage</i> is on an interest-only basis and details of how the firm expects the capital to be repaid; what to do if the account falls into <i>ar-rears</i> ; information	The date on which the <i>firm</i> issues the information to the <i>customer</i>	One year

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
		about linked borrowing or savings available and whether or not over-payments or under-payments are permitted.		
MCOB 9.6.1R	<i>Illustrations</i> required on event-driven changes to the contract	A copy of the illustrations issued for further advances requiring authorisation; rate switches and the removal or addition of a party to the contract	When the illustrations is issued	One year
MCOB 9.7.10R	Start of contract disclosure for a draw-down mortgage with fixed payments to the <i>customer</i>	The amount of the first and subsequent payments; the date of issue and method of the payment of the first and subsequent payments; details of insurance products purchased through the <i>firm</i> , and of the first and subsequent premiums and the method and date of collection; details of how the firm expects the capital and interest to be paid; information about linked borrowing or savings available and whether or not repayments are permitted	The date on which the firm issues the information to the customer	One year
MCOB 9.7.10R	Start of contract disclosure for a draw-down mortgage without fixed payments to the <i>customer</i>	Where the <i>customer</i> can choose the frequency of the payment, details of the limitations on frequency and amount of payments; where payments can vary for any other reasons, details of the amount of the first payment and how subsequent payments can vary; the method by which payments will be made; details of	The date on which the <i>firm</i> issues the information to the <i>customer</i>	One year

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
		insurance products purchased through the <i>firm</i> , and of the first and subsequent premiums and the method and date of collection; details of how the firm expects the capital and interest to be paid; information about linked borrowing or savings available and whether or not repayments are permitted		
MCOB 9.7.10R	Start of contract disclosure where a lump sum payment to the <i>customer</i> is made and interest is rolled up	Confirmation if appropriate that no payments are required and details of how the <i>firm</i> expect capital and interest to be paid; if payments are to be made, the amount, frequency and method of collection of the first and subsequent payments; what to do in the case of <i>ar-rears</i> ; details of insurance products purchased through the <i>firm</i> , and of the first and subsequent premiums and the method and date of collection; details of how the firm expects the capital and interest to be paid; information about linked borrowing or savings available and whether or not repayments are permitted	The date on which the firm issues the information to the customer	One year
MCOB 11.6.60R (1) to MCOB 11.6.60R (4)	Responsible lending and financing	Steps taken to comply with rules including: information taken into account in each affordability assessment; in relation to <i>interest-only mortgages</i> , the	When <i>regulated mortgage contract</i> or <i>home pur-</i>	The term of the contract or plan

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
		reasons for the offer decision, evidence relating to the <i>customer's</i> repayment strategy, details of the <i>firm's</i> attempts to contact the <i>customer</i> and the outcome of each mid-term review; information relating to the extension of the term of <i>bridging loans</i> which are neither with a <i>high net worth mortgage customer</i> nor or a secured overdraft solely for a business purpose	<i>chase plan</i> (or variation) is entered into, or the mid-term review takes place	
MCOB 11.6.60R (6)(a)	Transitional arrangements	The outstanding balance on the existing contract	When new contract or variation is entered into	For the term of the <i>regulated mortgage contract</i> or <i>home purchase plan</i>
MCOB 11.6.60R (6)(b)	Transitional arrangements	The cost of repairs or maintenance work to the property	When new contract or variation is entered into	For the term of the <i>regulated mortgage contract</i> or <i>home purchase plan</i>
MCOB 11.6.60R (6)(c)	Transitional arrangements	Any product fee or arrangement fee financed by any additional borrowing or increase in finance	When new contract or variation is entered into	For the term of the <i>regulated mortgage contract</i> or <i>home purchase plan</i>

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
MCOB 11.6.60R (6)(d)	Transitional arrangements	The rationale for each decision to enter into or vary a contract under MCOB 11.7	When new contract or variation is entered into	For the term of the <i>regulated mortgage contract</i> or <i>home purchase plan</i>
MCOB 11.6.60R (7)	Responsible lending and financing policy	The <i>firm's</i> policy, setting out the factors it will take into account in assessing a <i>customer's</i> ability to pay the sums due	When the policy is made	For so long as any <i>regulated mortgage contract</i> or <i>home purchase plan</i> to which it was applicable remains outstanding
MCOB 13.3.9 R	Dealings with <i>customers</i> who have or may have payment difficulties, or with a sale shortfall	Details of all dealings with the <i>customer</i> (including a recording of all telephone conversations (including video calls) which discuss any <i>arrears</i> or any amount subject to <i>payment shortfall</i> charges); information relating to any repayment plan; date of issue of any legal proceedings; arrangements made for sale of a <i>repossessed</i> property; and the basis of any tailored information where the loan is for a business purpose.	The date of the dealing	Three years from the date on which the record is made

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Schedule 2 Notification Requirements

Sch 2.1 G

There are no notification requirements in *MCOB*.

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Schedule 3 Fees and other required payments

Sch 3.1 G

There are no requirements for fees or other payments in MCOB.

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Schedule 4 Powers exercised

Sch 4.1 G
[deleted]

Sch 4.2 G
[deleted]

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Schedule 5 Rights of action for damages

Sch 5.1 G

The table below sets out the *rules* in *MCOB* contravention of which by an *authorised person* may be actionable under Section 138D of the *Act* (Actions for damages) by a *person* who suffers loss as a result of the contravention.

If a "Yes" appears in the column headed "For private person?", the *rule* may be actionable by a *private person* under Section 138D (or, in certain circumstances, his fiduciary or representative; see article 6(2) and (3)(c) of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 (SI 2001/2256)). A "Yes" in the column headed "Removed" indicates that the FCA has removed the right of action under Section 138D(3) of the *Act*. If so, a reference to the *rule* in which it is removed is also given.

The column headed "For other person?" indicates whether the *rule* may be actionable by a *person* other than a *private person* (or his fiduciary or representative) under article 6(2) and (3) of those Regulations. If so, an indication of the type of *person* by whom the *rule* may be actionable is given.

Sch 5.2 G

Chapter / Appendix	Section / Annex	Paragraph	Right of action under section 138D			
			For private person?	Removed?	For other person?	
All <i>rules</i> in <i>MCOB</i> with the status letter "E"			No	No	No	
Any <i>rule</i> in <i>MCOB</i> which prohibits an <i>authorised person</i> from seeking to make provision excluding or restricting any duty or liability			Yes	No	Yes	Any other <i>person</i>
All other <i>rules</i> in <i>MCOB</i>			Yes	No	No	

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Schedule 6 Rules that can be waived

Sch 6.1 G

As a result of section 138A of the *Act* (Modification or waiver of rules) the *FCA* has power to waive all its *rules*, other than *rules* made under section 137O (Threshold condition code), section 247 (Trust scheme rules), section 248 (Scheme particular rules), section 261I (Contractual scheme rules) or section 261J (Contractual scheme particulars rules) of the *Act*.

