

Chapter 8

Obligations & Process

8.7 Recording a charge over a society's assets

8.7.1 **G** When a society wants to use some of its assets as security, usually for a loan, it does so by agreeing to a document that creates a 'charge' over those assets.

8.7.2 **G** Societies can record floating or fixed (except in Scotland) charges on assets of the society with us.

8.7.3 **G** The process of recording the charge with us can be carried out either by the society or by the lender who is given security over the society's assets. This is done using forms or other documents completed by the society.

Recording the charge

8.7.4 **G** We need the following information to record a charge:

- (1) a copy of the charge document certified as true with an original signature;
- (2) a completed form:
 - (a) giving the society's registration number and full name, and details of the charge and the parties to it; and
 - (b) signed by the society secretary, a solicitor acting for the society, or another person interested in the charge (e.g. the lender) acting for the society.

[Note: <http://www.fca.org.uk/your-fca/documents/forms/notification-of-charges-form>]

8.7.5 **G** This information must be sent to us within 21 days (including the date it was signed) of the date of signing the charge document.

8.7.6 **G** We do not accept redacted copies of charges.

8.7.7 **G** We will confirm we have recorded the charge, and place a copy of it on the public register.

Late registrations of charges

8.7.8

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If the application is:

- (1) late; or
- (2) incomplete because of omissions or errors,

'by reason of inadvertence or other sufficient cause', we have power to extend the period for recording, or to give a chance to correct the omission or error. [Note: s60 and 63 the Act]

8.7.9

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To decide if we can extend the registration period we need to know the reasons for the late application. The form should explain why the application was submitted late. Writing 'it was submitted late' is not enough and we will ask for more detailed reasons. Even if the application is correct but has been submitted outside the 21 day limit, we will return it unless satisfactory reasons are given.

Releasing, discharging and dealing with registered charges

8.7.10

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When a charge over society assets is released, discharged or subject to any other transaction, societies should complete this form to notify us so that we can include that information on the public register.

[Note: <http://www.fca.org.uk/your-fca/documents/forms/notification-of-charges-form>]

8.7.11

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To release a charge we need to receive:

- (1) the appropriate form for the society, depending on whether it is registered in Scotland or England and Wales
 - (a) signed by the society secretary, confirming the date that the charge was released or wholly or partially satisfied; and
 - (b) containing the address or other identifying details of the property no longer charged if it is released or wholly satisfied; or, if the charge is only partially satisfied, the amount by which it is partially satisfied; and

[Note: <https://www.fca.org.uk/your-fca/documents/forms/notification-of-charges-form>]

- (2) a sworn statutory declaration by the society secretary and one committee member (or director) that the information entered on the form about the charge is true to the best of their knowledge, information and belief; and
- (3) copies of the original acknowledgement of the registration of the charge and the first page of the charge being released.