

Chapter 4

Pre-contractual requirements

4.6 Pre-contract disclosure: continuous payment authorities

Application

4.6.1

R

- (1) This section applies to:
- (a) a *firm* with respect to *consumer credit lending*; or
 - (b) a *firm* with respect to *consumer hiring*; or
 - (c) a *firm* with respect to *operating an electronic system in relation to lending* in relation to a prospective *borrower* under a *P2P agreement*.

Disclosure of continuous payment authorities

4.6.2

R

- (1) Before entering into a *regulated credit agreement* or *regulated consumer hire agreement*, or before a *P2P agreement* is entered into, under which the *customer* may grant a *continuous payment authority*, the *firm* must provide the *customer* with an adequate explanation of the matters in (2).
- (2) The matters referred to in (1) are:
- (a) what a *continuous payment authority* is and how it works;
 - (b) how the *continuous payment authority* will be applied by the *firm*, including where the *firm* provides *high-cost short-term credit* that it may only be used twice to collect the whole sum due in relation to the agreement or where the agreement provides for repayment in instalments, in relation to an instalment;
 - (c) how the *customer* can cancel the *continuous payment authority*;
 - (d) whether alternative repayment options are available;
 - (e) the choice of an appropriate due date for payment;
 - (f) the choice of an alternative payment date (if applicable);
 - (g) the consequences if sufficient funds are not available on the due date (or an alternative payment date if agreed);
 - (h) whether further attempts may be made to collect payment and, if so, the basis on which further attempts would be made, the days or period over which the further attempts would be made and the frequency of the further attempts;
 - (i) other than in relation to *high-cost short-term credit*, whether part payment (a sum due which less than the full sum due at the time the *firm's* payment request is made) may be sought and, if

so, the basis on which and frequency with which payment would be sought and whether part payments would be subject to a minimum amount or percentage;

- (j) in relation to *high-cost short-term credit*, the *firm* will not seek part payment (a sum due which is less than the full sum due at the time the *firm's* payment request is made) unless the *firm* is willing to accept such less sum and, after being notified of that sum and when a payment request would be made, the *customer* has given express consent to the *firm* to make such a payment request; and
- (k) whether default fees and other charges may be added and, if so, the circumstances in which these may be incurred and the amount of such fees and charges or the basis on which they will be calculated.

[Note: paragraph 3.9miii of DCG]

4.6.3 **R** A *firm* must include the terms of the *continuous payment authority*, in plain and intelligible language, as part of the *credit agreement* or *consumer hire agreement* presented to the *customer* or *P2P agreement* presented to the *borrower*.

[Note: paragraph 3.9miii of DCG]

4.6.4 **R** [deleted]

Agreements where there is a guarantor etc

- 4.6.5 **R**
- (1) This *rule* applies if:
 - (a) a *firm* is to enter into a *regulated credit agreement* or a *regulated consumer hire agreement*, or is to facilitate the entry into a *P2P agreement*;
 - (b) an *individual* other than the *borrower* or the *hirer* (in this *rule* referred to as "the guarantor") is to provide a guarantee or an indemnity (or both) in relation to the *regulated credit agreement*, the *regulated consumer hire agreement* or the *P2P agreement*; and
 - (c) the guarantor is to grant a *continuous payment authority*.
 - (2) The *firm* must, before the guarantor provides the guarantee or the indemnity, provide the guarantor with an adequate explanation of the matters in ■ CONC 4.6.2R(2).
 - (3) For the purposes of (2), ■ CONC 4.6.2R(2) applies as if references to the *customer* were references to the guarantor.
 - (4) The *firm* must include the terms of the *continuous payment authority*, in plain and intelligible language, in the document that includes the guarantee or the indemnity (or both).
 - (5) For the purposes of this *rule*, a guarantee does not include a *legal or equitable mortgage* or a *pledge*.