

Chapter 11

Responsible lending, and responsible financing of home purchase plans

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);

- (2) the value of the property which is the subject of the *regulated mortgage contract* or *home purchase plan* 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 *firm* 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:
 - (a) the variation of an existing non-MCD *first charge regulated mortgage contract*,
 - (b) the entry into a non-MCD *first charge regulated mortgage contract*, or
 - (c) a *home purchase plan* or variation of a *home purchase plan*.

- 11.7.3 **R**
- (1) When considering *entering into a first charge regulated mortgage contract* which is an *interest-only mortgage* or varying a *first charge regulated mortgage contract* which is an *interest-only mortgage*, a *mortgage lender* 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 *regulated mortgage contract* in **■ MCOB 11.7.1R (1)** is an *interest-only mortgage*.
 - (2) Where only part of the sum advanced under the existing *regulated mortgage contract* is on an interest-only basis, (1) applies, but only to that part.

11.7.4 **G** In accordance with its obligation under *Principle 6* to treat its *customers* fairly, a *firm* should not treat a *customer* with whom it *enters into* or varies a *regulated mortgage contract* or *home purchase plan* pursuant to this section 11.7 less favourably than it would treat other *customers* with similar characteristics, for example by offering less favourable interest rates or other terms.

11.7.5 **G** *Firms* should note the record-keeping requirements at **■ MCOB 11.6.60R (6)** which apply when *regulated mortgage contracts* and *home purchase plans* are *entered into* or varied under this section.

11.7.6 **R** Where a *firm* 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 *first charge regulated mortgage contract* they propose to enter into between 21 September 2015 and 21 March 2016 is not to be regarded as an *MCD regulated mortgage contract* for the purposes of this chapter.