

Chapter 4A

Additional MCD advising and selling standards

4A.1 Additional disclosure by MCD mortgage credit intermediaries

- 4A.1.1** **R** 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, in good time before carrying out any *MCD mortgage credit intermediation activity*, provide the *consumer* with at least the following information in a *durable medium*:
- (1) the identity and the geographical address of the *MCD mortgage arranger*;
 - (2) the *Financial Services Register* or other registers in which the *MCD mortgage arranger* has been included, the registration numbers, where applicable, and the means for verifying such registrations;
 - (3) whether the *MCD mortgage arranger* is an *MCD mortgage adviser*; and
 - (4) the procedures allowing *consumers* or other interested parties to complain to the *MCD mortgage arranger*, whether complaints may subsequently be referred to the *Financial Ombudsman Service* and, if so, the methods of having access to it.
- [Note: article 15(1)(a), (b), (d) and (f) of the *MCD*]
- 4A.1.2** **G** In ■ MCOB 4A.1.1R (4):
- (1) other interested parties includes all parties to the relevant *MCD regulated mortgage contract* and parties that have an interest in the *MCD regulated mortgage contract*, such as a guarantor of the obligations under the *MCD regulated mortgage contract*;
 - (2) where the *MCD mortgage arranger* provides the information in the general terms and conditions of the sales or service contracts, before carrying out any *MCD mortgage credit intermediation activity*, it need not provide it again.
- 4A.1.3** **G** The information listed in ■ MCOB 4A.1.1 R need not all be given at the same time or in the same disclosure.
- 4A.1.4** **G** In general, where other requirements for disclosure in a *durable medium* also apply, the *MCD mortgage arranger* may, if it would also satisfy those requirements, combine those other disclosures with the information required

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 *tiered 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*.