

## Chapter 5

# Pre-application disclosure



## 5.4 Information on regulated mortgage contracts: general

5.4.1 **R** [deleted]

### Accuracy

5.4.2 **R** [deleted]

5.4.3 **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* is accurate

5.4.4 **G** [deleted]

5.4.5 **G** [deleted]

5.4.6 **G** It is the responsibility of a *mortgage intermediary* to ensure compliance with **MCOB 5.4.3 R**. 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 *mortgage lender*, that an *illustration* 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 *firm* must not issue an *illustration* to a *customer* for a *regulated mortgage contract* for which the *customer* is clearly ineligible on the basis of the information that the *firm* has obtained from the *customer* or the *mortgage lender's* lending criteria.

5.4.9 **G** The purpose of **MCOB 5.4.8 R** is not to require a *firm* to ascertain whether a *customer* is eligible for a particular *regulated mortgage contract* before providing an *illustration*. Instead, the purpose is to ensure that the *firm* takes into account the information it has obtained from the *customer* before providing an *illustration* to the *customer*.

**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 *illustration* provided to a *customer* by a *firm* must be in a *durable medium*.

**Provision of information**

**5.4.13** **R** [deleted]

**5.4.13A** **G** When providing information on *regulated mortgage contracts*, *firms* 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 *customer* 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 *financial promotion* 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** (1) Whenever a *firm* provides a *customer* with information specific to the amount that the *customer* wants to borrow on a particular *regulated mortgage contract* following an assessment of the *customer's* needs and circumstances in order to comply with **MCOB 4.7A.2 R**, it must give, clearly and prominently, the following information:

5.4.18B

**R**

- (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); and
  - (b) 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) 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**

5.4.18B

**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

- 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*.