

Chapter 5

Pre-application disclosure

5.5 Provision of illustrations

Timing

5.5.1

R

- (1) A *firm* must provide the *customer* with an *illustration* for a *regulated mortgage contract* before the *customer* submits an application for that particular *regulated mortgage contract* to a *mortgage lender*, unless an *illustration* for that particular *regulated mortgage contract* has already been provided.
- (2) Except in the circumstances in ■ MCOB 5.5.1A R, a *firm* must provide the *customer* with an *illustration* for a *regulated mortgage contract* when any of the following occurs, unless an *illustration* for that *regulated mortgage contract* has already been provided:
 - (a) the *firm* advises the particular *customer* to enter into that *regulated mortgage contract*, in which case an *illustration* must be provided at the point the advice is given, unless the advice is given by telephone, in which case the *firm* must provide an *illustration* within 5 *business days*; or
 - (b) [deleted]
 - (c) [deleted]
 - (d) the *customer* requests an *illustration* for that *regulated mortgage contract*, unless the *firm* is aware that it is unable to offer that *regulated mortgage contract* to him; or
 - (e) as part of an *execution-only sale* (or potential *execution-only sale*) the *customer* has provided the *firm* with the information in ■ MCOB 4.8A.14R (1) to ■ MCOB 4.8A.14R (3) to indicate which *regulated mortgage contract* he wishes to enter into; or
 - (f) as part of an *execution-only sale* (or potential *execution-only sale*), a *high net worth mortgage customer* or a *customer* who is entering into the *regulated mortgage contract* solely for a business purpose, has indicated his intention to submit an application for that *regulated mortgage contract*.
- (3) Subject to ■ MCOB 5.5.4 R, the *firm* may comply with (1) and (2) by providing an *offer document* containing an *illustration*, if this can be done as quickly as providing an *illustration*.

5.5.1A

R

A *firm* need not provide an *illustration*:

- (1) in relation to a *direct deal*;

		<p>(2) if the <i>customer</i> refuses to disclose key information (for example, in a telephone conversation, his name or a communication address) or where the <i>customer</i> is not interested in pursuing the enquiry; or</p> <p>(3) if the <i>firm</i> does not wish to do business with the <i>customer</i>.</p>
5.5.1B	R	If the <i>firm</i> chooses not to give an <i>illustration</i> in the circumstances set out in ■ MCOB 5.5.1AR (1), where it has given advice on a <i>direct deal</i> , the firm must give the <i>customer</i> a written record of the advice.
5.5.1C	R	If, notwithstanding ■ MCOB 5.5.1AR (1), a <i>firm</i> chooses to give an <i>illustration</i> in relation to a <i>direct deal</i> , it remains subject to MCOB 3A.2.1R(2) (fair, clear and not misleading communications).
5.5.1D	G	[deleted]
5.5.1E	G	In the circumstances in ■ MCOB 5.5.1AR (2), the <i>rule</i> in ■ MCOB 5.5.1 R (1) will mean that the <i>customer</i> may not make an application for a <i>regulated mortgage contract</i> as an <i>illustration</i> has not been provided.
5.5.2	G	The effect of the requirements at ■ MCOB 5.3.1 R and ■ MCOB 5.5.1 R(1) is that if a <i>customer's</i> application to enter into a <i>regulated mortgage contract</i> with a <i>mortgage lender</i> , made via a <i>mortgage intermediary</i> , is subsequently passed by that <i>mortgage intermediary</i> to another <i>mortgage lender</i> , then the <i>mortgage intermediary</i> must ensure that the application is amended and the <i>customer</i> is provided with an <i>illustration</i> for the other <i>mortgage lender's</i> <i>regulated mortgage contract</i> before the application is passed to the other <i>mortgage lender</i> .
5.5.3	G	If a <i>firm</i> chooses to issue an <i>offer document</i> in place of an <i>illustration</i> in accordance with ■ MCOB 5.5.1 R(3), it will need to comply with ■ MCOB 6.4 (Content of the offer document), and in particular with ■ MCOB 6.6 (Offer documents in place of illustrations).
5.5.4	R	A <i>firm</i> must not undertake any action that commits the <i>customer</i> to an application (including accepting product-related fees in relation to the <i>regulated mortgage contract</i> concerned) until the <i>customer</i> has had the opportunity to consider an <i>illustration</i> .
5.5.5	G	The effect of the requirements at ■ MCOB 5.5.1 R(1) and ■ MCOB 5.5.4 R is that a <i>customer</i> will be deemed to be committed to an application if, for example, he pays a product related fee (including a valuation fee) or provides electronic or verbal authority to process an application. It is not necessary for a <i>customer</i> to provide a <i>mortgage lender</i> with a completed application form to submit an application for a <i>regulated mortgage contract</i> .
5.5.6	G	[deleted]

5.5.7	R	The <i>firm</i> dealing directly with the <i>customer</i> is responsible for ensuring compliance with the content and timing requirements, that is, a <i>mortgage lender</i> is not responsible for ensuring that a <i>customer</i> has received an <i>illustration</i> before accepting an application from a <i>mortgage intermediary</i> .
5.5.8	R	Where a <i>firm</i> has already provided an <i>illustration</i> in accordance with ■ MCOB 5.5.1 R and the terms for the proposed <i>regulated mortgage contract</i> are subsequently materially altered, the <i>firm</i> must ensure that the <i>customer</i> is provided with a revised <i>illustration</i> , before acting on the amendment, when the change occurs at the point at which a <i>customer</i> submits an application for the <i>regulated mortgage contract</i> .
5.5.9	G	What constitutes 'materially altered' requires consideration of the facts of each individual case. For example, a change of product such that the underlying terms and conditions of the <i>regulated mortgage contract</i> have changed should normally be regarded as material, as would an additional charge, such as a <i>higher lending charge</i> , applying to the <i>regulated mortgage contract</i> when it did not previously.
5.5.10	G	Unless the <i>customer</i> requests a revised <i>illustration</i> , a <i>firm</i> is not required to provide one if the <i>customer</i> has already submitted an application, and an amendment is made subsequently. The <i>mortgage lender</i> should however ensure that any amendment is reflected in the <i>offer document</i> .
Uncertainty whether a mortgage is regulated		
5.5.11	R	<div>(1) If, at the point an <i>illustration</i> must be provided in accordance with ■ MCOB 5.5.1 R, a <i>firm</i> is uncertain whether the contract will be a <i>regulated mortgage contract</i>, the <i>firm</i> must:<div>(a) provide an <i>illustration</i>; or</div><div>(b) seek to obtain from the <i>customer</i> information that will enable the <i>firm</i> to ascertain whether the contract will be a <i>regulated mortgage contract</i>.</div><div>(2) Where (1)(b) applies, an <i>illustration</i> must be provided, unless, on the basis of the information the <i>customer</i> provides, the <i>firm</i> has reasonable evidence that the contract is not a <i>regulated mortgage contract</i>.</div></div>
5.5.12	G	If the <i>firm</i> has reasonable evidence that the contract is not a <i>regulated mortgage contract</i> and has not provided an <i>illustration</i> before a <i>customer</i> submits an application, and it is subsequently found that the contract is a <i>regulated mortgage contract</i> , there is no requirement to provide a separate <i>illustration</i> at that stage. However, the requirement to integrate an <i>illustration</i> into the <i>offer document</i> at ■ MCOB 6.4.1 R will apply.
5.5.13	R	[deleted]

Providing an illustration without delay in response to a customer request

- 5.5.14** **G** Where the *customer* requests an *illustration* for a particular *regulated mortgage contract* (see ■ MCOB 5.5.1 R (2)(d)), the purpose of ■ MCOB 5.5.15 R, ■ MCOB 5.5.16 R and ■ MCOB 5.5.17 G is to ensure that the *customer* receives an *illustration* without unnecessary delay. These requirements do not restrict the information that the *firm* may obtain from the *customer* after it has provided the *customer* with an *illustration*.
- 5.5.15** **R** In meeting a request for an *illustration* in accordance with ■ MCOB 5.5.1 R (2)(d), the *firm* must not delay the provision of the *illustration* by requesting information other than:
- (1) the information necessary to personalise the *illustration* in accordance with ■ MCOB 5.6.6 R, if the *firm* does not already know it;
 - (2) where the *firm* acts in accordance with ■ MCOB 5.5.11 R(2), such information as is necessary to ascertain whether or not the contract will be a *regulated mortgage contract*;
 - (3) where the *regulated mortgage contract* involves any *linked deposits* and the *firm* chooses to provide an example in the *illustration* in accordance with ■ MCOB 5.6.109 R(2) or ■ MCOB 5.6.110 R(2), or both, such information as is necessary to produce the example;
 - (4) where the interest rates, payments or any other terms and conditions to be included in the *illustration* are dependent on the *customer's* credit record, such information as is necessary to produce an *illustration*;
 - (5) where the *firm* includes a quotation for any *tied products* or compulsory insurance in the *illustration*, such information as is necessary to produce those quotations;
 - (6) where the *customer* agrees to receive a quotation for insurance in the *illustration* (other than that provided for in (5)), such information as is necessary to produce those quotations; and
 - (7) any of the following information where it affects the availability of the *regulated mortgage contract* that the *customer* has requested information on or affects the information to be included in the *illustration*:
 - (a) whether the *customer* is a first-time buyer, a subsequent buyer moving home or entering into a *regulated mortgage contract* without moving home;
 - (b) whether the *regulated mortgage contract* is required for a right-to-buy purchase or for a shared ownership purchase;
 - (c) [deleted]
 - (d) the location of the property to be purchased, where known; and
 - (e) whether the terms are dependent on a third party guarantee.

5.5.16	R	<p>Where ■ MCOB 5.5.15 R(4) applies:</p> <ol style="list-style-type: none"> (1) a <i>firm</i> must ask the <i>customer</i> relevant questions about his credit history or obtain information on his credit record from a credit reference agency; (2) a credit reference agency must not be used unless: <ol style="list-style-type: none"> (a) it would be quicker than asking the <i>customer</i> the relevant questions about his credit history; or (b) the <i>customer</i> is not able to provide sufficient information on his credit history.
5.5.17	G	<p>A <i>firm</i> may use information that it already holds on the <i>customer</i> for the purpose of producing the <i>illustration</i> (for example, if it already holds the <i>customer's</i> credit record), providing the use of this information does not delay the <i>customer</i> receiving the <i>illustration</i> and the <i>customer's</i> consent is obtained where appropriate.</p>
5.5.18	R	<p>If, on the basis of the information obtained from the <i>customer</i> or on the basis of information that the <i>firm</i> already holds on the <i>customer</i>, the <i>firm</i> would do business with the <i>customer</i>, but not on the terms requested, the <i>firm</i> may provide the <i>customer</i> with an <i>illustration</i> in respect of a different regulated mortgage contract if it chooses to do so.</p>