

**MORTGAGES AND HOME FINANCE (PEER TO PEER) INSTRUMENT 2019****Powers exercised**

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
  - (2) section 137R (Financial promotion rules);
  - (3) section 137T (General supplementary powers); and
  - (4) section 139A (The FCA’s power to give guidance).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on 4 June 2019.

**Amendments to the Handbook**

- D. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2) below:

(1)	(2)
Glossary of definitions	Annex A
Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)	Annex B
Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)	Annex C
Supervision manual (SUP)	Annex D
Consumer Credit sourcebook (CONC)	Annex E

**Citation**

- E. This instrument may be cited as the Mortgages and Home Finance (Peer to Peer) Instrument 2019.

By order of the Board  
30 May 2019

**Annex A****Amendments to the Glossary of definitions**

In this Annex, underlining indicates new text.

Amend the following definition as shown.

*tyed product*      (1) (other than where (2) applies) a product, other than *linked borrowing* or a *linked deposit*, that a *customer* is obliged to purchase through a *mortgage lender* or *reversion provider* as a condition of taking out a *regulated mortgage contract* or *home reversion plan* with that *firm*; or  
(2) (in relation to a *customer* of a *P2P platform operator*) a product, other than *linked borrowing* or a *linked deposit*, that a *customer* is obliged to purchase through a *P2P platform operator* as a condition of taking out a *regulated mortgage contract* or *home reversion plan* through that *firm*.

## Annex B

### Amendments to the Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)

In this Annex, underlining indicates new text.

#### 5 Insurance undertakings and home finance providers using insurance or home finance mediation services

##### 5.1 Application and purpose

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5.1.1A **R** (1) This chapter also applies to a *firm* which is a *P2P platform operator* facilitating a *regulated mortgage contract, home purchase plan, home reversion plan* or *regulated sale and rent back agreement* where the lender or provider under that contract does not fall within the definition of a *mortgage lender, home purchase provider, reversion provider* or *regulated sale and rent back firm*.

(2) Where (1) applies, references to a *firm* using the services of another *person* consisting of *insurance distribution, insurance distribution activity* or *home finance mediation activity* are to be read as references to the *P2P platform operator* using those services.

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## Annex C

## Amendments to the Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)

In this Annex, underlining indicates new text, unless where otherwise stated.

### 1 Application and purpose

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### 1.2 General application: who? what?

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#### Application of MCOB where agreements are facilitated by a P2P platform

- 1.2.22    R    (1)    A provision of MCOB that applies to a mortgage lender, a home purchase plan provider, a home reversion provider or a SRB agreement provider also applies to a P2P platform operator facilitating a regulated mortgage contract, home purchase plan, home reversion plan or regulated sale and rent back agreement where the lender, plan provider, reversion provider or agreement provider does not require permission to enter into the transaction. It applies subject to the provisions in MCOB 15.
- (2)    A provision of MCOB that applies to a mortgage administrator or a home purchase administrator also applies to a P2P platform operator administering a regulated mortgage contract or home purchase plan on behalf of a lender or plan provider who did not require permission to enter into the transaction. It applies subject to the provisions in MCOB 15.
- (3)    Subject to MCOB 1.2.22R(5), MCOB 1.2.22R(4) applies where:
- (a)    a P2P platform operator facilitates an arrangement under which a number of persons provide home finance to a single customer, either individually under separate contracts, or jointly and severally under a single contract;
- (b)    by virtue of MCOB 1.2.22R(1), a provision of MCOB (as modified by MCOB 15) applies to the P2P platform operator;
- (c)    the provision as modified requires the P2P platform operator to make a disclosure or notification in respect of the entirety of the arrangement; and
- (d)    the provision requires one or more of the home finance providers under the arrangement to make the same disclosure

or notification in respect of their individual contract, or their share of the joint and several contract.

- (4) The home finance provider is not required to comply with the provision referred to in MCOB 1.2.22R(3)(d).
- (5) MCOB 1.2.22R(4) does not apply where non-compliance with the provision would be incompatible with EU law.

1.2.23     G     (1)     The purpose of MCOB 1.2.22R(3) to 1.2.22R(5) is to avoid imposing overlapping requirements on the P2P platform operator facilitating a home financing arrangement and any firms who may participate in that arrangement as finance providers, to the extent that is compatible with EU law, in particular the MCD and the Distance Marketing Directive. The table below provides non-exhaustive guidance on MCOB provisions with which a firm may need to comply, notwithstanding MCOB 1.2.22R(3) and MCOB 1.2.22R(4).

(2)     This table belongs to (1).

<u><b>MCOB provisions</b></u>	<u><b>Description</b></u>
<u>MCOB 5A.4.1R</u>	<u>Provision of a European Standardised Information Sheet (ESIS): timing</u>
<u>MCOB 6.5.6R</u>	<u>Distance contracts with retail customers</u>
<u>MCOB 6.8.5R</u>	<u>Distance contracts with retail customers</u>
<u>MCOB 7.6.1R</u>	<u>Notification of payment changes and other material changes to terms and conditions</u>
<u>MCOB 7.6.7R</u> <u>MCOB 7.6.17R</u>	<u>Further advances</u>
<u>MCOB 7.6.18R</u>	<u>Rate switches</u>
<u>MCOB 7.6.22R</u>	<u>Addition or removal of a party to the contract</u>
<u>MCOB 7.6.28R</u>	<u>Changes to the amount of each payment due</u>

1.2.24     R     In this section and in MCOB 15:

- (1)     a reference to a P2P platform operator facilitating a regulated mortgage contract, home purchase plan, home reversion plan or regulated sale and rent back agreement is a reference to the platform facilitating persons becoming the lender and borrower, home purchase provider and home purchaser, reversion provider and reversion occupier, or agreement provider and agreement seller

under an agreement which comprises that transaction; and

- (2) a reference to a *regulated mortgage contract* that is facilitated by a *P2P platform operator* excludes a *CBTL credit agreement*.

- 1.2.25 G *MCOB 15 contains rules and guidance that apply in relation to regulated mortgage contracts and other home finance transactions facilitated by P2P platform operators. It includes rules that disapply other parts of MCOB that would otherwise apply by virtue of MCOB 1.2.22R(1) or 1.2.22R(2), and rules that apply or modify the application of certain other MCOB provisions in such circumstances. MCOB 15 also includes guidance that will be relevant to such a P2P platform operator whether or not a lender or provider falls within the definition of a mortgage lender, home purchase provider, reversion provider or SRB agreement provider.*

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Insert the following new chapter, MCOB 15, after MCOB 14 (MCD article 3(1)(b) credit agreements). The text is not underlined.

## **15 P2P home finance activities**

### **15.1 Handbook provisions which apply in respect of home finance transactions entered into via a P2P platform**

- 15.1.1 G The purpose of *MCOB 15* is, where a *firm* is a *P2P platform operator* which carries on a *regulated activity* in relation to a *home finance transaction* and where the lender or provider does not require permission to enter into the transaction, to:
- (1) explain the application of *MCOB* provisions to the *firm*;
  - (2) apply to the *firm rules and guidance* in *MCOB* that would not otherwise apply, to ensure the protection provided under *MCOB* to the recipient of home finance is not affected by the status of the provider;
  - (3) make modifications to the way certain provisions of *MCOB* apply to the *firm*; and
  - (4) disapply specified *MCOB* provisions from the *firm*.
- 15.1.2 G The effect of *CONC 1.2.12R* is that a provision of *CONC* that would otherwise apply in relation to a *regulated mortgage contract* or a *home purchase plan* does not apply where the transaction is facilitated by a *P2P platform operator* and the lender or plan provider does not require permission to enter into it.

## 15.2 Guidance on the application of MCOB where agreements are facilitated by a P2P platform

- 15.2.1 G (1) Where a *home finance transaction* is entered into with the facilitation of a *firm* which is a *P2P platform operator*, the *firm* is likely to carry on an activity of the kind specified by article 25A, 25B, 25C or 25E of the *Regulated Activities Order* (arranging) and if so *MCOB* provisions applying to that activity will apply to the *firm*. In addition, a *firm* which is a *P2P platform operator* may carry on an activity of the kind specified by article 53A, 53B, 53C or 53D of the *Regulated Activities Order* (advising) and, if so, *MCOB* provisions applying to that activity will apply to the *firm*.
- (2) Where a lender requires permission under article 61(1) of the *Regulated Activities Order* to enter into a *regulated mortgage contract* (that is, where it carries on that activity by way of business and is not excluded or exempt) it will require that permission notwithstanding the fact that it does so with the facilitation of a *P2P platform operator*, and will be responsible for complying with relevant *MCOB rules*. Similarly, where a *person* requires permission under article 63B or 63F of the *Regulated Activities Order* to enter into a *home reversion plan* or a *home purchase plan*, it will require that permission notwithstanding the fact that it does so with the facilitation of a *P2P platform operator*, and will be responsible for complying with relevant *MCOB rules*. It would be open to such a lender or provider to outsource the performance of those obligations to the platform, having regard to the *guidance* on outsourcing in *MCOB 1.2.1AG*.
- (3) Under current legislation, any *person* who enters into a *regulated sale and rent back agreement* requires permission, unless they are a related *person* in relation to the agreement seller within the meaning of article 63J(4)(c) of the *Regulated Activities Order*, or excluded or exempt. However, it should be noted that the relevant legislative provision will cease to have effect on 1 January 2022.
- (4) To secure an appropriate degree of protection for *consumers*, where a *home finance transaction* is facilitated by a *P2P platform operator* and the lender or provider under that transaction does not fall within the definition of a *mortgage lender*, *home purchase provider*, *reversion provider* or *SRB agreement provider*, *MCOB 1.2.22R(1)* applies to the *P2P platform operator* those provisions of *MCOB* that would apply to the lender or provider if it were a *mortgage lender*, *home purchase provider*, *reversion provider* or *SRB agreement provider*.
- (5) For the same reason, where a *regulated mortgage contract* or *home purchase plan* is administered by a *P2P platform operator* on behalf of a lender or provider who did not enter into the transaction by way of business, *MCOB 1.2.22R(2)* applies to the *P2P platform operator*

those provisions of *MCOB* that would apply to the administrator if the transaction had been entered into by way of business.

- (6) This chapter applies *MCOB* 3A (financial promotions etc) to a *firm* which is a *P2P platform operator* in relation to a *home finance transaction*.
- (7) As set out in *MCOB* 4.6.1G, a *consumer* may have a right to cancel a *distance contract* for services provided by a *P2P platform operator*.
- (8) *MCOB* 5.6.113R to 5.6.119G (payments made to a mortgage intermediary) are not relevant to a *mortgage intermediary* which is a *P2P platform operator* where the lender does not require permission for entering into a *regulated mortgage contract*. However, if there is a *mortgage intermediary* other than the *P2P platform operator* involved in the transaction, those provisions may apply to that intermediary, with the modifications set out in *MCOB* 15.4.14R. The same applies in relation to similar provisions in *MCOB* 9.4.119R to 9.4.125G (payments to a lifetime mortgage intermediary), with the modifications set out in *MCOB* 15.4.16R, and in *MCOB* 9.4.168R to *MCOB* 9.4.174G (payments to a reversion intermediary), with the modifications set out in *MCOB* 15.4.17R.
- (9) The specified activities of administering a *home reversion plan* in article 63B of the *Regulated Activities Order* and administering a *regulated sale and rent back agreement* in article 63J of that Order apply whether or not the plan or agreement is entered into by way of business and so will be relevant to a *P2P platform operator* carrying on those activities in relation to those products.

### **15.3 Further provisions about the application of MCOB where agreements are facilitated by a P2P platform**

- 15.3.1 R *MCOB* 3A (financial promotions etc) applies to a *firm* which is a *P2P platform operator communicating or approving a financial promotion of a P2P agreement* which is a *home finance transaction* where the lender or provider does not require permission to enter into the transaction. It applies as though references to *qualifying credit* were references to agreements that would be *qualifying credit* but for the lender not carrying on *regulated activity* by *entering into or administering a regulated mortgage contract*.
- 15.3.2 R *MCOB* 13 (arrears, payment shortfalls and repossessions) applies to a *firm* which is a *P2P platform operator* in respect of *regulated mortgage contracts* or *home purchase plans*. It applies as though:
  - (1) references to a *mortgage administrator* or a *home purchase administrator* include a *P2P platform operator*;
  - (2) references to *administering a regulated mortgage contract*,



*administering a home purchase plan* and *administering a sale shortfall* include a *P2P platform operator* administering such an agreement or shortfall on behalf of a lender or plan provider. References expressing the same concept but using different tenses are similarly included; and

- (3) references to a *firm* taking any action against a *customer* include where the *firm* takes action required by a security trustee holding rights for a lender or provider under a *regulated mortgage contract* or *home purchase plan*.

## 15.4 Modifications

### General modifications

- 15.4.1 R Where a provision of *MCOB* applies to a *firm* which is a *P2P platform operator* and requires the *firm* to refer to the identity of the *mortgage lender, home purchase provider, reversion provider* or *SRB agreement provider*, the provision may be satisfied by a statement that the loan, plan or agreement is provided by investors facilitated by the *P2P platform operator*.
- 15.4.2 R Where a provision of *MCOB* applies to a *firm* which is a *P2P platform operator* and refers to the “lender’s base mortgage rate”, “the lender’s standard variable rate” or a similar phrase, the *firm* must refer to the *firm*’s base mortgage rate or standard variable rate, as the case may be.
- 15.4.3 R Where a provision of *MCOB* applies to a *firm* which is a *P2P platform operator*, that provision applies as if:
- (1) references to a *firm* entering into a *home finance transaction* (or any particular type or types of *home finance transaction*) with a *customer* include the *firm* which is the *P2P platform operator* facilitating a lender or provider entering into such a *home finance transaction* with a *customer*;
- (2) references to a *firm* varying an existing *home finance transaction* (or any particular type or types of *home finance transaction*) include the *firm* which is the *P2P platform operator* varying such an agreement or plan on behalf of a lender or provider; and
- (3) other references to a *mortgage lender, home purchase provider, reversion provider* or *SRB agreement provider* include the *P2P platform operator*.
- 15.4.4 R (1) Where a *P2P platform operator* facilitates an arrangement under which a number of *persons* provide home finance to a single *customer* under separate *P2P agreements* comprising separate *home finance transactions*, the provisions of *MCOB* listed in the table in (2) apply as though a requirement for the *firm* to make a notification or disclosure in respect of a *home finance transaction* is a

requirement for the *firm* to make a single notification or disclosure reflecting the aggregate terms and effects of all the *home finance transactions* taken together.

(2) This table belongs to (1).

<b>MCOB provisions</b>	<b>Description</b>
<i>MCOB 2.6A.5AR</i>	Protecting customer's interests: regulated sale and rent back agreements
<i>MCOB 5.5.1R</i>	Provision of illustrations: timing
<i>MCOB 5.8</i>	Pre-application disclosure: home purchase plans
<i>MCOB 5.9</i>	Pre-sale disclosure for regulated sale and rent back agreements
<i>MCOB 6.4.1R</i>	Mortgages: content of the offer document
<i>MCOB 6.5.1R</i>	Tariff of charges
<i>MCOB 6.5.6R</i>	Distance contracts with retail customers
<i>MCOB 6.8.1R</i>	Home purchase plans: offer document
<i>MCOB 6.8.5R</i>	Home purchase plans: distance contracts with retail customers
<i>MCOB 6.9.3R</i>	Regulated sale and rent back agreements: written pre-offer document: Stage One
<i>MCOB 6.9.10R</i>	Regulated sale and rent back agreements: written pre-offer document: Stage Two
<i>MCOB 7.4.1R</i>	Mortgages: disclosure at the start of the contract: disclosure requirements
<i>MCOB 7.5.1R</i>	Annual statement: requirement
<i>MCOB 7.5.10R</i>	Annual statement: additional content if tariff of charges has changed
<i>MCOB 7.6.1R</i>	Notification of payment changes and other material changes to terms and conditions
<i>MCOB 7.6.2R</i>	Notification where the regulated mortgage contract is sold, assigned or transferred
<i>MCOB 7.6.5R</i>	Notification where additional borrowing

	taken up
<i>MCOB 7.6.7R</i> <i>MCOB 7.6.17R</i>	Further advances
<i>MCOB 7.6.18R</i>	Rate switches
<i>MCOB 7.6.22R</i>	Addition or removal of a party to the contract
<i>MCOB 7.6.28R</i>	Changes to amount of each payment due
<i>MCOB 7.8.1R</i>	Home purchase plans: post-sale disclosure
<i>MCOB 7.8.3R</i>	Home purchase plans: annual statement
<i>MCOB 7.8.6R</i>	Home purchase plans: tariff of charges
<i>MCOB 7.9.1R</i>	Post-sale disclosure for regulated sale and rent back agreements
<i>MCOB 9.3.1R</i>	Equity release: pre-application disclosure
<i>MCOB 9.5.1R</i>	Disclosure at the offer stage for equity release transactions
<i>MCOB 9.6.1R</i>	Disclosure at the start of the contract and after sale for equity release transactions
<i>MCOB 9.7.2R</i>	Disclosure at the start of the contract: lifetime mortgages: disclosure requirements where interest payments are required
<i>MCOB 9.7.4R</i>	Disclosure requirements where the regulated lifetime mortgage contract is a drawdown mortgage with fixed payments to the customer
<i>MCOB 9.7.6R</i>	Disclosure requirements where the regulated lifetime mortgage contract is a drawdown mortgage with variable payments to the customer
<i>MCOB 9.7.8R</i>	Disclosure requirements where a lump sum payment is made to the customer and interest is rolled up
<i>MCOB 9.8.1R</i>	Lifetime mortgages: annual statements: content
<i>MCOB 9.8.3R</i>	Lifetime mortgages: event driven

	information
<i>MCOB 9.8.5R</i>	Lifetime mortgages: further advances
<i>MCOB 9.8.9R</i> <i>MCOB 9.8.10R</i>	Lifetime mortgages: changes to payments, amounts drawn down and amount owed
<i>MCOB 9.9.1R</i>	Provision of statements: instalment reversion plans
<i>MCOB 9.9.3R</i>	Annual statement for instalment reversion plans: content
<i>MCOB 9.9.4R</i>	Annual statement for instalment reversion plans: additional content if tariff of charges has changed
<i>MCOB 9.9.5R</i>	Event-driven information for instalment reversion plans: material changes
<i>MCOB 13.3.4AR(2)</i>	Information to understand the implications of any proposed arrangement for dealing with payment difficulties
<i>MCOB 13.3.4BR</i>	Information about government schemes to assist borrowers in payment difficulties
<i>MCOB 13.4.1R</i>	Arrears: provision of information to the customer of a regulated mortgage contract
<i>MCOB 13.4.5R</i>	Steps required before action for repossession: provision of updated information
<i>MCOB 13.5.1R</i>	Dealing with a customer in arrears or with a sale shortfall on a regulated mortgage contract: statements of charges
<i>MCOB 13.6.3R</i> <i>MCOB 13.6.4R</i>	Repossessions: if the proceeds of sale are less than the amount due: notification of intent to pursue shortfall
<i>MCOB 13.6.6R</i>	If the proceeds of sale are more than the amount due: informing the customer
<i>MCOB 13.8.1R</i>	Home purchase plans: arrears: provision of information to the customer

- 15.4.5 R Where a provision of *MCOB* applies to a *firm* which is a *P2P platform operator* and requires the *firm* to provide an *illustration*, the *firm* may provide a *European Standardised Information Sheet (ESIS)* instead. The *ESIS* may diverge from the requirements of *MCOB 5A* where it is necessary

to do so to describe the aggregate terms and effects of all the *home finance transactions* comprising the arrangement with the *customer*, taken together.

Protecting customers' interests: home finance transactions

- 15.4.6 R *MCOB 2.6A.-1R* (inclusion and reliance on certain interest terms in agreements) applies to a *firm* which is a *P2P platform operator* as if:
- (1) in place of the *firm* not relying on a term mentioned in that *rule* it referred to the *firm* not taking steps to exercise or enforce rights under such a term; and
  - (2) in place of referring to a term permitting the *firm* to change the rate of interest, it referred to a term permitting that rate to be changed.
- 15.4.7 G A *firm* which is a *P2P platform operator* may comply with *MCOB 4.4A.1R* (1) and *MCOB 4.4A.2R* by providing a *customer* with an explanation in simple, clear terms that the *firm* only offers loans facilitated on its platform.
- 15.4.8 R The “relevant market” referred to in *MCOB 4.4A.2R* in relation to a *firm* which is a *P2P platform operator* is the market for *regulated mortgage contracts* offered by such platforms.
- 15.4.9 R In disclosing remuneration under *MCOB 4.4A.8R*, a *firm* which is a *P2P platform operator* is not required to disclose any fees paid by a lender.
- 15.4.10 R The following *rules* apply subject to the modifications to *MCOB 4.4A* set out elsewhere in *MCOB 15.4*:
- (1) *MCOB 4.4A.9R* (method of providing initial disclosure in all cases);
  - (2) *MCOB 4.4A.12R* (timing of initial disclosure in all cases);
  - (3) *MCOB 4.4A.18R* (additional disclosure under distance contracts); and
  - (4) the *rules* in *MCOB 4.10* (home purchase plans: sales standards).
- 15.4.11 G The *guidance* in *MCOB 4.10* (home purchase plans: sales standards) should be read as modified as necessary to take account of the effect of *MCOB 15.4.10R* on the *rules* in *MCOB 4.10*.
- 15.4.12 R *MCOB 4.6A.1R* (rolling up of fees etc. into loans) applies to a *firm* which is a *P2P platform operator* facilitating a *regulated mortgage contract* with the modification that, in addition to the *firm* not offering a *regulated mortgage contract* to a *customer*, the *firm* must also not facilitate the entry of a *customer* into a such a contract.
- 15.4.13 R *MCOB 5.5.1R* (timing of provision of mortgage illustration) and *MCOB 5.8.1R* (financial information statement: timing) apply to a *firm* which is a *P2P platform operator* on the basis that the application for that particular *regulated mortgage contract* or *home purchase plan* is made to the *firm*.

- 15.4.14 R Where *MCOB* 5.6 applies to a *firm* which is a *P2P operator* facilitating a *regulated mortgage contract*, and the *illustration* is issued to the *customer* by, or on behalf of, a separate *mortgage intermediary*, references in *MCOB* 5.6.113R to 5.6.119G to a *mortgage lender* must be treated as referring to the *P2P platform operator*.
- 15.4.15 R *MCOB* 6.4.5G (information about advice provided by mortgage intermediary) applies to a *firm* which is a *P2P platform operator* as if the references to the *mortgage lender* are references to the *P2P platform operator* and references to a *mortgage intermediary* are references to a *person* other than the *P2P platform operator*.
- 15.4.16 R Where *MCOB* 9.4 applies to a *firm* which is a *P2P operator* facilitating a *lifetime mortgage*, and the *illustration* is issued to the *customer* by, or on behalf of, a separate *mortgage intermediary*, references in *MCOB* 9.4.119R to 9.4.125G to a *mortgage lender* must be treated as referring to the *P2P platform operator*.
- 15.4.17 R Where *MCOB* 9.4 applies to a *firm* which is a *P2P platform operator* facilitating a *home reversion plan*, and the *illustration* is issued to the *customer* by, or on behalf of, a separate *reversion intermediary*, references in *MCOB* 9.4.168R to 9.4.174R to a *reversion provider* must be treated as referring to the *P2P platform operator*.
- 15.4.18 R Where *MCOB* 11.8 (customers unable to change contract, plan or provider) applies in relation to a *regulated mortgage contract* or *home purchase plan* facilitated by a *P2P platform operator*, *MCOB* 11.8.1E applies as if the reference to a *customer* being unable to enter into a new *regulated mortgage contract* or *home purchase plan* or vary the terms of the existing *regulated mortgage contract* or a *home purchase plan*, with the existing or a new *mortgage lender* or *home purchase provider*, is a reference to a *customer* being unable to enter into a new *regulated mortgage contract* or *home purchase plan* or vary the terms of an existing *regulated mortgage contract* or *home purchase plan*, which is facilitated by the platform.

## 15.5 MCOB provisions disapplied from P2P platform operators

- 15.5.1 R The *rules* in the following provisions of *MCOB* do not apply to an *MCD mortgage credit intermediary*, where that *firm* is a *P2P platform operator* facilitating a *regulated mortgage contract* where the lender does not require permission to enter into the contract:
- (1) *MCOB* 2A (Mortgage Credit Directive);
  - (2) *MCOB* 3A.5 (MCD financial promotions);
  - (3) *MCOB* 3B (MCD general information);
  - (4) *MCOB* 4.4A.4R (range of products);

- (5) *MCOB* 4A (additional MCD advising and selling standards);
  - (6) *MCOB* 5.6.113R to 5.6.117R (payments to mortgage intermediaries) do not apply to a *mortgage intermediary* which is a *P2P platform operator* where the lenders under *regulated mortgage contracts* entered into by a particular borrower do not require permission for entering into *regulated mortgage contracts*. In this case Section 14 of the illustration must be renumbered 13;
  - (7) *MCOB* 5A (MCD pre-application disclosure);
  - (8) *MCOB* 6A (MCD disclosure at the offer stage);
  - (9) *MCOB* 7A (additional MCD disclosure: start of contract and after sale); and
  - (10) *MCOB* 11A (additional MCD responsible lending requirements).
- 15.5.2 G (1) The *guidance* in the provisions of *MCOB* listed in *MCOB* 15.5.1R is not relevant in relation to an *MCD mortgage credit intermediary*, where that *firm* is a *P2P platform operator* facilitating a *regulated mortgage contract* where the lender does not require permission to enter into the contract.
- (2) Similarly, the following *guidance* is not relevant in relation to such an *MCD mortgage credit intermediary*:
- (a) *MCOB* 4.4A.3G, 4.4A.3AG, 4.4A.5G and 4.4A.6G (range of products); and
  - (b) *MCOB* 5.6.118G and 5.6.119G (payments to mortgage intermediaries) (see *MCOB* 15.5.1R(6)).
- 15.5.3 G A *regulated mortgage contract* (including a *MCD regulated mortgage contract*) where the lender does not act by way of business is not within the scope of the *MCD*.

## Annex D

## Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

## 16 Reporting requirements

...

### 16.11 Product Sales Data Reporting

Application

16.11.1 R This section applies:

(1) in relation to sales data reports, to a *firm*:

(a) ...

(aa) which is a P2P platform operator which facilitates entry into a regulated mortgage contract, home purchase plan, home reversion plan or regulated sale and rent back agreement where the lender or provider does not require permission to enter into the transaction; or

...

(2) in relation to performance data reports, to a *firm*; ~~in which the rights and obligations of the lender under a regulated mortgage contract are vested.~~

(a) in which the rights and obligations of the lender under a regulated mortgage contract are vested; or

(b) which is a P2P platform operator which facilitates entry into a regulated mortgage contract where the lender does not require permission to enter into the transaction.

...

Reporting requirement

16.11.3 R ...

(4) ~~A SRB agreement provider~~ The following types of firm must compile, and keep for at least five years from the end of the relevant quarter, a data report containing the information required by SUP 16.11.5R, but is are not subject to the requirement in (1) to submit a data report (or to the requirement in SUP 16.11.9R);



- (a) a SRB agreement provider; and
- (b) a P2P platform operator which facilitates entry into a regulated sale and rent back agreement where the provider does not require permission to enter into the transaction.

...

16.11.8- **R** Where a P2P platform operator facilitates an arrangement under which a number of persons provide home finance to a single customer, either individually under separate contracts, or jointly and severally under a single contract:

- (1) the sales data report and performance data report of the P2P platform operator must include data in respect of the arrangement taken as a whole, as though it comprised a single transaction; and
- (2) the sales data report and performance data report of any firm which is the lender or provider under any separate contract forming part of the arrangement must include data in respect of that contract.

...

## 16.12 Integrated Regulatory Reporting

...

16.12.4 **R** Table of applicable rules containing *data items*, frequency and submission periods

(1)		(2)	(3)	(4)
RAG number	Regulated Activities	Provisions containing:		
		applicable data items	reporting frequency/ period	due date
...				
RAG 5	- home finance administration or home finance providing activity  - the activity of a P2P platform operator facilitating a home finance transaction, where the lender or	SUP 16.12.18BR and SUP 16.12.18CR	SUP 16.12.18BR and SUP 16.12.18CR	SUP 16.12.18BR and SUP 16.12.18CR

	<u>provider does not require permission to enter into the transaction</u>			
...	...	...	...	...

...

Regulated Activity Group 5

...

16.12.18 R The applicable *data items*, reporting frequencies and submission deadlines referred to in SUP 16.12.4R are set out in the table below. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period.

B

Description of <i>data item</i>	<i>Data item</i> (note 1)	Frequency	Submission deadline
...	...	...	...
Capital Adequacy (notes 4 and 5)	Section C MLAR	Quarterly	20 <i>business days</i>
...	...	...	...
...			
Note 4	Not applicable if the <i>firm</i> exclusively carries on <i>home finance administration</i> or <i>home finance providing activities</i> in relation to <i>second charge regulated mortgage contracts</i> or <i>legacy CCA mortgage contracts</i> (or both).  <u>Also not applicable if the <i>firm</i> is a <i>P2P platform operator</i> facilitating <i>home finance transactions</i>.</u>		
...			

...

Regulated Activity Group 9

...

16.12.28 R The applicable *data items*, reporting frequencies and submission deadlines referred to in SUP 16.12.4R are set out in the table below. Reporting

A

frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period.

Description of data item	Data item (note 1)	Frequency		Submission deadline
		Annual regulated business revenue up to and including £5 million	Annual regulated business revenue over £5 million	
...	...	...	...	...
Capital Adequacy (note 3)	Section D1 RMAR	Half yearly	Quarterly	30 <i>business days</i>
...	...	...	...	...
...				
Note 3	<p>This item does not apply to <i>firms</i> who only carry on <i>home finance mediation activities</i> exclusively in relation to <i>second charge regulated mortgage contracts</i> or <i>legacy CCA mortgage contracts</i> (or both) and who are not otherwise expected to complete it by virtue of carrying out other regulated activities.</p> <p><u>This item also does not apply if the <i>firm</i> is a <i>P2P platform operator</i> facilitating <i>home finance transactions</i> and is not required to submit it by virtue of carrying out other regulated activities.</u></p>			

...

## 16 Annex 19BG Notes for completion of the Mortgage Lenders & Administrators Return ('MLAR')

...

### INTRODUCTION: GENERAL NOTES ON THE RETURN

...

## 2. Overview of reporting requirements

The data requirements for *firms* carrying on the *regulated activities* of *home*

*finance providing activity and administering a home finance transaction* consist of quarterly, half yearly and annual information. The same data requirements apply to a P2P platform operator facilitating home finance transactions where a lender or provider does not require permission to enter into the transaction, and references to home finance providers or home finance administrators should be read as including such P2P platform operators, where relevant.

This *guidance* deals only with the quarterly requirements, however, which are referred to as the Mortgage Lenders and Administrators Return (*MLAR*). The remaining data requirements are applied to *firms* through existing rules within the following sections of the *Handbook*:

...

...

## 16 Reporting Fields

### Annex 21R

This is the annex referred to in SUP 16.11.7R.

#### 1 GENERAL REPORTING FIELDS

The following data reporting fields must be completed, where applicable, for all reportable transactions and submitted in a prescribed format.

Data reporting field	Code (where applicable)	Notes
Reference number of product provider	6 digit number	This field must contain the <i>firm</i> reference number of the <i>firm</i> providing the data report.  <u>Where a <i>firm</i> which is a P2P platform operator submits a report in relation to a home finance product in line with SUP 16.11.8-AR, the reference number of the product provider is the reference number of the P2P platform operator.</u>
Reference number of <i>firm</i> that sold the product	6 digit number	This field must contain the <del><i>firm</i></del> <i>firm</i> reference number (FRN) of the <i>firm</i> which sold the product.  For a <i>firm</i> 's own direct sales, enter the <i>firm</i> 's own FRN. <u>Where a <i>firm</i> which is a P2P platform operator submits a report in relation to a home finance product in line with SUP 16.11.8-AR, the reference number of the <i>firm</i> that sold the product is the reference</u>

		<p><u>number of the <i>P2P platform operator</i>, unless a separate intermediary was also involved.</u></p> <p>For sales via an intermediary (including those facilitated by a <i>P2P platform operator</i> where a separate intermediary is also involved), enter the intermediary's FRN.</p> <p>Where the intermediary is an <i>appointed representative</i>, the FRN of the <i>appointed representative</i> must be reported.</p>
...	...	...

## Annex E

### Amendments to the Consumer Credit sourcebook (CONC)

In this Annex, underlining indicates new text.

#### 1            **Application and purpose and guidance on financial difficulties**

...

#### 1.2         **Who? What? Where?**

...

Application where home financing agreements are facilitated by a P2P platform

1.2.12     R     *CONC does not apply to a P2P platform operator in circumstances where MCOB applies by virtue of MCOB 1.2.22R(1).*

1.2.13     G     *MCOB 1.2.22R(1) provides that a rule in MCOB that applies to a mortgage lender, a home purchase plan provider, a home reversion provider or a SRB agreement provider also applies to a P2P platform operator facilitating a regulated mortgage contract, home purchase plan, home reversion plan or regulated sale and rent back agreement where the lender, plan provider, reversion provider or agreement provider does not require permission to enter into the transaction. It applies subject to the provisions in MCOB 15.*