

Chapter 11A

Additional MCD responsible lending requirements



11A.1 MCD mortgage credit intermediary: submission of information to MCD mortgage lender

11A.1.1

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An *MCD mortgage credit intermediary* must accurately submit any relevant information obtained from the *consumer* to the *MCD mortgage lender* to enable an assessment of affordability to be carried out.

[Note: article 20(2) of the *MCD*]

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11A.2 Prohibition on cancellation or variation of MCD regulated mortgage contract on grounds of creditworthiness

11A.2.1

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An *MCD mortgage lender* must not cancel, or vary the terms of, an *MCD regulated mortgage contract* to the detriment of the *consumer* on the grounds that the assessment of affordability was incorrectly conducted or the information provided by the *consumer* prior to the agreement of the *MCD regulated mortgage contract* was incomplete. However, this does not apply where the *MCD mortgage lender* can demonstrate that the *consumer* knowingly withheld or falsified information relevant to the assessment of affordability of the *MCD regulated mortgage contract*.

[Note:articles 18(4) and 20(3) of the *MCD*]

11A.3 Obtaining information for, and assessment of, affordability from the consumer and rejecting an application

11A.3.1 **R**

- (1) An *MCD mortgage lender* must specify in a fair, clear and not misleading way, in good time before assessing affordability of a *MCD regulated mortgage contract*, to a *consumer*:
 - (a) all the necessary information and independently verifiable evidence that the *consumer* needs to provide; and
 - (b) the timeframe within which the *consumer* needs to provide the information or evidence.
- (2) A request for information or evidence under (1) must be proportionate and limited to what is necessary to conduct a proper affordability assessment.
- (3) A request for information or evidence under (1) may be made directly or through an *MCD mortgage credit intermediary*. The *MCD mortgage lender* or the *MCD mortgage credit intermediary*, if requesting on behalf of the *MCD mortgage lender*, must:
 - (a) ensure the *consumer* is aware of the need to provide correct information in response to the request and that such information is as complete as necessary to conduct a proper assessment of affordability; and
 - (b) warn the *consumer* that, where the *MCD mortgage lender* is unable to carry out an assessment of affordability because the *consumer* chooses not to provide the information or evidence necessary for an assessment of affordability, the credit cannot be granted.
- (4) The *MCD mortgage lender* may seek clarification, directly or through an *MCD mortgage credit intermediary*, of the information or evidence received in response to a request under (1), where necessary, to enable the assessment of affordability of an *MCD regulated mortgage contract*.

[Note:article 20(3) and (4) of the *MCD*]

11A.3.2 **G** An *MCD mortgage lender* must inform a *consumer* in advance if a database is to be consulted in conducting any assessment of affordability for an *MCD regulated mortgage contract*.

[Note: article 18(5)(b) of the *MCD*]

11A.3.3 **R** (1) Where an *MCD mortgage lender* rejects a *consumer's* application for an *MCD regulated mortgage contract*, the *MCD mortgage lender* must inform the *consumer* without delay:

(a) of the rejection and, where applicable, that the decision is based on automated processing of data; and

(b) where the rejection is based on the result of the database consultation, of the result of such consultation and of the particulars of the database consulted.

[Note: article 18(5)(c) of the *MCD*]

(2) No obligation under (1) shall be interpreted in a manner which contravenes *data protection legislation*.

