

## Chapter 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

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- (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).

MCOB provisions	Description
MCOB 2.6A.5AR	Protecting customer's interests: regulated sale and rent back agreements
MCOB 5.5.1R	Provision of illustrations: timing
MCOB 5.8	Pre-application disclosure: home purchase plans
MCOB 5.9	Pre-sale disclosure for regulated sale and rent back agreements
MCOB 6.4.1R	Mortgages: content of the offer document
MCOB 6.5.1R	Tariff of charges
MCOB 6.5.6R	Distance contracts with retail customers
MCOB 6.8.1R	Home purchase plans: offer document
MCOB 6.8.5R	Home purchase plans: distance contracts with retail customers
MCOB 6.9.3R	Regulated sale and rent back agreements: written pre-offer document: Stage One
MCOB 6.9.10R	Regulated sale and rent back agreements: written pre-offer document: Stage Two
MCOB 7.4.1R	Mortgages: disclosure at the start of the contract: disclosure requirements
MCOB 7.5.1R	Annual statement: requirement
MCOB 7.5.10R	Annual statement: additional content if tariff of charges has changed
MCOB 7.6.1R	Notification of payment changes and other material changes to terms and conditions
MCOB 7.6.2R	Notification where the regulated mortgage contract is sold, assigned or transferred
MCOB 7.6.5R	Notification where additional borrowing taken up
MCOB 7.6.7R	Further advances
MCOB 7.6.17R	
MCOB 7.6.18R	Rate switches
MCOB 7.6.22R	Addition or removal of a party to the contract
MCOB 7.6.28R	Changes to amount of each payment due
MCOB 7.8.1R	Home purchase plans: post-sale disclosure
MCOB 7.8.3R	Home purchase plans: annual statement

MCOB provisions	Description
MCOB 7.8.6R	Home purchase plans: tariff of charges
MCOB 7.9.1R	Post-sale disclosure for regulated sale and rent back agreements
MCOB 9.3.1R	Equity release: pre-application disclosure
MCOB 9.5.1R	Disclosure at the offer stage for equity release transactions
MCOB 9.6.1R	Disclosure at the start of the contract and after sale for equity release transactions
MCOB 9.7.2R	Disclosure at the start of the contract: lifetime mortgages: disclosure requirements where interest payments are required
MCOB 9.7.4R	Disclosure requirements where the regulated lifetime mortgage contract is a drawdown mortgage with fixed payments to the customer
MCOB 9.7.6R	Disclosure requirements where the regulated lifetime mortgage contract is a drawdown mortgage with variable payments to the customer
MCOB 9.7.8R	Disclosure requirements where a lump sum payment is made to the customer and interest is rolled up
MCOB 9.8.1R	Lifetime mortgages: annual statements: content
MCOB 9.8.3R	Lifetime mortgages: event driven information
MCOB 9.8.5R	Lifetime mortgages: further advances
MCOB 9.8.9R	Lifetime mortgages: changes to payments, amounts drawn down and amount owed
MCOB 9.8.10R	
MCOB 9.9.1R	Provision of statements: instalment reversion plans
MCOB 9.9.3R	Annual statement for instalment reversion plans: content
MCOB 9.9.4R	Annual statement for instalment reversion plans: additional content if tariff of charges has changed
MCOB 9.9.5R	Event-driven information for instalment reversion plans: material changes
MCOB 13.3.4AR(2)	Information to understand the implications of any proposed arrangement for dealing with payment difficulties



MCOB provisions	Description
MCOB 13.3.4BR	Information about government schemes to assist borrowers in payment difficulties
MCOB 13.4.1R	Arrears: provision of information to the customer of a regulated mortgage contract
MCOB 13.4.5R	Steps required before action for repossession: provision of updated information
MCOB 13.5.1R	Dealing with a customer in arrears or with a sale shortfall on a regulated mortgage contract: statements of charges
MCOB 13.6.3R MCOB 13.6.4R	Repossessions: if the proceeds of sale are less than the amount due: notification of intent to pursue shortfall
MCOB 13.6.6R	If the proceeds of sale are more than the amount due: informing the customer
MCOB 13.8.1R	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 platform 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 platform 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

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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

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- (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** [deleted]

