

Chapter 4A

Additional MCD advising and selling standards

		<div> <div></div> <div>4A.1</div> </div> <div>Additional disclosure by MCD mortgage credit intermediaries</div>
4A.1.1	R	<p>An <i>MCD mortgage arranger</i> (unless it is also acting as an <i>MCD mortgage lender</i> and carrying out a direct sale of the proposed regulated mortgage contract) must, in good time before carrying out any <i>MCD mortgage credit intermediation activity</i>, provide the <i>consumer</i> with at least the following information in a <i>durable medium</i>:</p> <ol style="list-style-type: none"> (1) the identity and the geographical address of the <i>MCD mortgage arranger</i>; (2) the <i>Financial Services Register</i> or other registers in which the <i>MCD mortgage arranger</i> has been included, the registration numbers, where applicable, and the means for verifying such registrations; (3) whether the <i>MCD mortgage arranger</i> is an <i>MCD mortgage adviser</i>; and (4) the procedures allowing <i>consumers</i> or other interested parties to complain to the <i>MCD mortgage arranger</i>, whether complaints may subsequently be referred to the <i>Financial Ombudsman Service</i> and, if so, the methods of having access to it. <p>[Note: article 15(1)(a), (b), (d) and (f) of the <i>MCD</i>]</p>
4A.1.2	G	<p>In ■ MCOB 4A.1.1R (4):</p> <ol style="list-style-type: none"> (1) other interested parties includes all parties to the relevant <i>MCD regulated mortgage contract</i> and parties that have an interest in the <i>MCD regulated mortgage contract</i>, such as a guarantor of the obligations under the <i>MCD regulated mortgage contract</i>; (2) where the <i>MCD mortgage arranger</i> provides the information in the general terms and conditions of the sales or service contracts, before carrying out any <i>MCD mortgage credit intermediation activity</i>, it need not provide it again.
4A.1.3	G	<p>The information listed in ■ MCOB 4A.1.1 R need not all be given at the same time or in the same disclosure.</p>
4A.1.4	G	<p>In general, where other requirements for disclosure in a <i>durable medium</i> also apply, the <i>MCD mortgage arranger</i> may, if it would also satisfy those requirements, combine those other disclosures with the information required</p>

by ■ MCOB 4A.1.1 R, so long as the combined disclosure is provided to the *consumer* in good time before the *MCD mortgage arranger* carries out any *MCD mortgage credit intermediation activity*.

- 4A.1.5 **R** An *MCD mortgage credit intermediary* who is not a *tied MCD mortgage credit intermediary* (unless it is also acting as an *MCD mortgage lender* and carrying out a direct sale of the proposed *regulated mortgage contract*), but who receives commission from one or more *MCD mortgage lenders* must, at the *consumer's* request, provide information on the variation in levels of commission payable by the *MCD mortgage lenders* providing the *MCD regulated mortgage contract* being offered to the *consumer*. The *consumer* must be informed that they have the right to request such information.

[Note: article 15(2) of the *MCD*]

- 4A.1.6 **R** An *MCD mortgage credit intermediary* (unless it is also acting as an *MCD mortgage lender* and carrying out a direct sale of the proposed *regulated mortgage contract*) must inform the *MCD mortgage lender* of any fee payable by the *consumer* to the *MCD mortgage credit intermediary* for its services, for the purpose of calculating the *APRC*.

[Note: article 15(4) of the *MCD*]

- 4A.1.7 **R** An *MCD mortgage credit intermediary* (unless it is also acting as an *MCD mortgage lender* and carrying out a direct sale of the proposed *regulated mortgage contract*) must require their *appointed representatives* to disclose to the *consumer* the capacity in which the *appointed representative* is acting and the *MCD mortgage credit intermediary* that the *appointed representative* is representing when contacting or before dealing with any *consumer*.

[Note: article 15(5) of the *MCD*]

4A.2 Adequate explanations

4A.2.1

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- (1) An *MCD mortgage lender* or *MCD mortgage credit intermediary* must provide, orally or in a *durable medium*, adequate explanations to the *consumer* of the proposed *MCD regulated mortgage contract* and any ancillary services, before any binding offer is issued to that *consumer*, to enable the *consumer* to assess whether the proposed *MCD regulated mortgage contract* and ancillary services meets their needs and financial situation.

[Note: article 16(1) of the *MCD*]

- (2) The explanations must, where applicable, include:
- (a) the pre-contractual information to be provided in accordance with:
 - (i) the *ESIS* or *illustration*; and
 - (ii) in the case of an *MCD mortgage credit intermediary* (unless it is also acting as an *MCD mortgage lender* and carrying out a direct sale of the proposed *MCD regulated mortgage contract*), ■ MCOB 4.4A.1R (1) and ■ MCOB 4.4A.1R (2), ■ MCOB 4.4A.4 R, ■ MCOB 4.4A.8R (1)(a), ■ (c), ■ (d) and ■ (2), and ■ MCOB 4A.1.1 R to ■ MCOB 4A.1.7 R
 - (b) the essential characteristics of the products proposed;
 - (c) the specific effects the products proposed may have on the *consumer*, including the consequences of default in payment by the *consumer*; and
 - (d) where ancillary services are bundled with an *MCD regulated mortgage contract*, whether each component of the bundle can be terminated separately and the implications for the *consumer* of doing so.

[Note: article 16(1) of the *MCD*]

4A.2.2

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In complying with ■ MCOB 4A.2.1 R, a *firm* may adapt the manner and extent of giving the explanations, as well as the person giving them, according to:

- (1) the circumstances of the situation in which the *MCD regulated mortgage contract* is offered;
- (2) the *consumer* to whom it is offered; and
- (3) the nature of the *MCD regulated mortgage contract* offered.

[Note: article 16(2) of the *MCD*]

4A.2.3

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The explanations given to a *consumer* for the purposes of complying with ■ MCOB 4A.2.1 R do not amount to advice to that *consumer*. *Firms* may wish to refer to *PERG* (particularly ■ PERG 4.6) for guidance on the regulatory perimeter in relation to *advising on a home finance transaction*.



4A.3 Record of recommendation

- 4A.3.1

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An *MCD mortgage adviser*, or any other *firm* that is an *MCD mortgage lender* or an *MCD mortgage arranger* that provides advisory services within the meaning of article 4(21) of the *MCD*, must, for the particular transaction, explicitly inform the *consumer* whether advisory services are being, or can be, provided to the *consumer*.

[Note: article 22(1) of the *MCD*]
- 4A.3.2

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Where an *MCD mortgage adviser*, or any other *firm* that is an *MCD mortgage lender* or an *MCD mortgage arranger* that provides advisory services within the meaning of article 4(21) of the *MCD*, advises on a transaction relating to an *MCD regulated mortgage contract*, it must give the *consumer* a record on paper, or in another *durable medium*, of the recommendation provided.

[Note: article 22(3)(e) of the *MCD*]
- 4A.3.3

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The record in ■ MCOB 4A.3.2 R may consist of the completed *ESIS* or *illustration*.