

Chapter 5

Pre-application disclosure



5.4 Information on regulated mortgage contracts: general

5.4.1 R [deleted]

Accuracy

5.4.2 R [deleted]

5.4.3 R A mortgage intermediary must take reasonable steps to ensure that an illustration which it issues, or which is issued on its behalf, other than that provided by a mortgage lender is accurate

5.4.4 G [deleted]

5.4.5 G [deleted]

5.4.6 G It is the responsibility of a mortgage intermediary to ensure compliance with MCOB 5.4.3 R. However, where a firm can show that it was reasonable for it to rely on information provided to it by another person, other than the mortgage lender, that an illustration was accurate, it may be able to rely on MCOB 2.5.2 R, if this turns out not to be the case.

5.4.7 G [deleted]

Illustrations where customer ineligible

5.4.8 R A firm must not issue an illustration to a customer for a regulated mortgage contract for which the customer is clearly ineligible on the basis of the information that the firm has obtained from the customer or the mortgage lender's lending criteria.

5.4.9 G The purpose of MCOB 5.4.8 R is not to require a firm to ascertain whether a customer is eligible for a particular regulated mortgage contract before providing an illustration. Instead, the purpose is to ensure that the firm takes into account the information it has obtained from the customer before providing an illustration to the customer.

Explaining the importance of an illustration

- 5.4.10** **R** In providing an *illustration* to a *customer*, a *firm* must explain to the *customer* the importance of reading the *illustration* and understanding it.
- 5.4.11** **G** A *firm* may satisfy **MCOB 5.4.10 R** by drawing the *customer's* attention orally to the importance of reading and understanding the *illustration*, for example in a face-to-face meeting, or by referring to its importance in a covering letter or electronic communication or other written information that accompanies the *illustration*.

Form of an illustration

- 5.4.12** **R** Any *illustration* provided to a *customer* by a *firm* must be in a *durable medium*.

Provision of information

- 5.4.13** **R** [deleted]
- 5.4.13A** **G** When providing information on *regulated mortgage contracts*, *firms* should bear in mind that the information must be given in accordance with **MCOB 2.5A.1 R** (The customer's best interests).
- 5.4.14** **R** [deleted]
- 5.4.15** **R** [deleted]
- 5.4.16** **G** **MCOB 5** places no restrictions on the provision of information that is not specific to the amount the *customer* wants to borrow, for example, marketing literature including generic mortgage repayment tables or graphs illustrating the benefits of making a regular overpayment on a flexible mortgage. Such literature may, however, constitute a *financial promotion* and be subject to the provisions of **MCOB 3A** (Financial promotions and communications with customers).
- 5.4.17** **G** [deleted]
- 5.4.18** **R** [deleted]

Messages to be given when providing information on regulated mortgage contracts

- 5.4.18A** **R** (1) Whenever a *firm* provides a *customer* with information specific to the amount that the *customer* wants to borrow on a particular *regulated mortgage contract* following an assessment of the *customer's* needs and circumstances in order to comply with **MCOB 4.7A.2 R**, it must give, clearly and prominently, the following information:

5.4.18B R

- (a) the same information on the *firm's* product range as is required by ■ MCOB 4.4A.1R (1), ■ MCOB 4.4A.2 R and ■ MCOB 4.4A.4R (1); and
 - (b) that the *customer* has the right to request an *illustration* for any *regulated mortgage contract* which the *firm* is able to offer the *customer*.
- (2) A *firm* need not give the information in (1) if it has previously given that information in compliance with this *rule* within the last ten *business days*.

Message to be given when customer requests an execution-only sale

5.4.18C G

- (1) Whenever, as part of an *execution-only sale* (or potential *execution-only sale*), a *customer* provides a *firm* with the information in ■ MCOB 4.8A.14R (1), ■ (2) or ■ (3) the *firm* must inform the *customer*, clearly and prominently, that the *customer* has the right to request an *illustration* for any *regulated mortgage contract* which the *firm* is able to offer the *customer*.
- (2) Whenever, as part of an *execution-only sale* (or potential *execution-only sale*), a *high net worth mortgage customer* or *customer* who would be entering into a *regulated mortgage contract* solely for a business purpose is provided with information specific to the amount that the *customer* wants to borrow on a particular *regulated mortgage contract*, the *firm* must inform the *customer*, clearly and prominently, that the *customer* has the right to request an *illustration* for any *regulated mortgage contract* which the *firm* is able to offer the *customer*.
- (3) A *firm* need not give the information in (1) and (2) if it has previously given that information in compliance with this *rule* within the last ten *business days*.

Guidance relevant to messages given to customer

- (1) In order to demonstrate compliance with ■ MCOB 5.4.18AR (1), a *firm* may wish to consider, for example, doing one or more of the following: give the messages to the *customer* in a durable medium; build the requirements into the *firm's* training of staff, as evidenced by its training and compliance manuals; insert appropriate prompts into paper-based or automated sales systems; have procedures in place to monitor compliance by its staff with that *rule*. What is required in each case will depend on all the circumstances.
- (2) The reference in the template *illustration* at ■ MCOB 5 Annex 1 R to the possibility of obtaining other *illustrations* is not sufficient to comply with the obligations in ■ MCOB 5.4.18AR (1)(b) and ■ MCOB 5.4.18B R. A *firm* may, however, satisfy those obligations in a number of ways; for example, by drawing the *customer's* attention to the right to request an *illustration* orally in a face-to-face meeting, or by referring to it in a letter or electronic communication or other written information.

Record keeping

5.4.19 **R** A *firm* must make an adequate record of each *illustration* that it issues to a *customer* in accordance with ■ **MCOB 5.5.1 R** where the *customer* applies for that particular *regulated mortgage contract*.

5.4.20 **R** The record required by ■ **MCOB 5.4.19 R** must be retained for a year from the date of the application made by the *customer*.

5.4.21 **G** ■ **MCOB 5.4.19 R** does not require a *firm* to keep records of *illustrations* that are issued to a *customer* where the *customer* does not apply to enter into that particular *regulated mortgage contract*.

5.4.22 **G** The record maintained in accordance with ■ **MCOB 5.4.19 R** should contain or refer to matters such as:

- (1) the date on which the *illustration* was provided to the *customer*;
- (2) the date of the application made by the *customer*; and
- (3) details of the medium through which the *illustration* was provided.

Tied products

5.4.23 **R** Where the *illustration* provided to the *customer* does not contain an accurate quotation or a reasonable estimate of the payments the *customer* will need to make in connection with any *tied product* that the *customer* must take out with the *regulated mortgage contract*, and the *customer* applies for that *regulated mortgage contract*:

- (1) the *firm* must provide the *customer* with an accurate quotation as soon as possible after he has applied, and in good time before the *offer document* is provided;
- (2) the *customer* has a right to withdraw his application for the *regulated mortgage contract* for a period of seven days from receipt of the quotation referred to in (1);
- (3) the quotation for the *tied product* must be accompanied by a notice explaining that the *customer* can withdraw his application and receive a full refund of any fees paid in connection with the application for that *regulated mortgage contract* (excluding any fees paid in respect of the *regulated activity* of *arranging* or *advising* on a regulated mortgage contract by a *mortgage lender* or a *mortgage intermediary*) for a period of seven days from receipt of the quotation or acceptance of the *mortgage lender's* offer if sooner; and
- (4) the *firm* must refund any fees paid by the *customer* (excluding any fees paid in respect of any advice provided by a *mortgage lender* or a *mortgage intermediary*) if the *customer* decides to exercise his right to withdraw his application in accordance with (2).

5.4.24 **G** The rules on the content of an *illustration* at ■ **MCOB 5.6** (Content of illustrations) mean that if the *regulated mortgage contract* requires the

customer to take out a *tied product*, the *illustration* must include an accurate quotation or a reasonable estimate of the payments the *customer* would need to make for the *tied product* (see ■ MCOB 5.6.52 R (2) where the *tied product* is a *repayment strategy* and ■ MCOB 5.6.74 R where the *tied product* is insurance). If it is not possible to include this cost information in the *illustration*, ■ MCOB 5.4.23 R requires that the *customer* be provided with an accurate quotation of the payments associated with the *tied product* as soon as possible. If the quotation is provided after the *customer* has applied for the *regulated mortgage contract* the *customer* has the right to a refund of fees if he withdraws his application.

Retirement interest-only mortgages

- 5.4.25

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When a *firm* issues an *illustration* for a *retirement interest-only mortgage* that will be used to release capital, the *firm* must inform the *customer* that taking out the mortgage may affect the *customer's* tax position and entitlement to benefits, and that the *customer* should consider taking advice on these issues before applying.
- 5.4.26

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If the terms of the *retirement interest-only mortgage* include any restrictions as to who may live in the property, these restrictions must be disclosed to the *customer* before an application is made.
- 5.4.27

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The information referred to in ■ MCOB 5.4.25R and ■ MCOB 5.4.26R may be given to the *customer* either in the *illustration* or in a separate document provided at the same time as the *illustration*.