

Chapter 5

Pre-application disclosure



5.7 Business loans and loans to high net worth mortgage customers: tailored provisions

- 5.7.1

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Where the *regulated mortgage contract* is for a business purpose or a *high net worth mortgage customer*, a *firm* may choose to provide a *business illustration* or *high net worth illustration* (as applicable) (in compliance with ■ MCOB 5.7.2 R) instead of complying with ■ MCOB 5.6.
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Firms are reminded that, in accordance with ■ MCOB 1.2.3 R, they should comply in full with *MCOB*, but in doing so may opt to take account of all tailored provisions in *MCOB* that relate to business loans or loans to *high net worth mortgage customers*. Therefore, a *firm* may only follow the tailored provisions in ■ MCOB 5.7 in relation to one of these sectors if it also follows all other tailored provisions in *MCOB* that relate to that sector. In either case, the rest of *MCOB* applies in full.
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A *business illustration* or *high net worth illustration* provided to a customer must:

 - (1) use the headings and prescribed text in ■ MCOB 5 Annex 1 (except as provided in ■ MCOB 5.7) but need not follow the format;
 - (2) include the content required by ■ MCOB 5.6.3 R to ■ MCOB 5.6.128 R (except ■ MCOB 5.6.5 R, ■ MCOB 5.6.101 R, ■ MCOB 5.6.109 R to ■ MCOB 5.6.112 G, ■ MCOB 5.6.120 R and ■ MCOB 5.6.121 R);
 - (3) use the key facts logo followed by the text 'about this [term used by the *firm* to describe the borrowing, for example 'mortgage']';
 - (4) use font sizes and typefaces consistently throughout the *business illustration* or *high net worth illustration* which are sufficiently legible so that the *business illustration* or *high net worth illustration* can be easily read by a typical customer;
 - (5) ensure that the information is clearly laid out (for example, through the use of bullet points or similar devices to separate information);
 - (6) describe any *early repayment charge* as an 'early repayment charge' and not use any other expression to describe such charges;
 - (7) describe any *higher lending charge* as a 'higher lending charge' and not use any other expression to describe such charges; and

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- (8) include the risk warning described in ■ MCOB 5.6.124 R, or an equally clear and effective variation of this reflecting the nature of the *regulated mortgage contract*.
- (1) ■ MCOB 5.7.2 R(1) means that *firms* do not have to follow the ordering of sections set down in ■ MCOB 5.6, although they may choose to do so.
- (2) In accordance with ■ MCOB 5.7.2 R(8) an example of an appropriate variation to the risk warning would be: 'Your home may be repossessed if you are unable to fulfil the terms of this secured overdraft'.
- (3) A *firm* may also choose to include other information beyond that required by ■ MCOB 5.6. However, when adding additional material a *firm* should have regard to:
 - (a) the intended use of the *business illustration* or *high net worth illustration* as an aid to comparison by *customers*; and
 - (b) the requirement in MCOB 3A.2.1R that any communication should be fair, clear and not misleading.
- (4) The *business illustration* or *high net worth illustration* provided in accordance with ■ MCOB 5.7.2 R should be based upon the total borrowing that the *firm* is willing to provide under the *regulated mortgage contract*. This means that there is no requirement for a *firm* to provide a further *business illustration* or *high net worth illustration* (or *business offer document* or *high net worth offer document*) where a *customer* redraws against payments made under the *regulated mortgage contract*, providing this redrawing does not exceed the borrowing described in the original *business offer document* or *high net worth offer document*.
- (5) ■ MCOB 5.6.6 R(4) requires that where the term of the *regulated mortgage contract* is open-ended, the *business illustration* or *high net worth illustration* must be based on an assumed term of 12 months and that this assumption must be stated. This does not mean that a *firm* is limited in the actual term of the *regulated mortgage contract*. A *firm* is able to include in the *business illustration* or *high net worth illustration* an explanation that while a 12-month term has been assumed for the purpose of the *business illustration* or *high net worth illustration*, the *regulated mortgage contract* itself will be open-ended.

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Any *business illustration* or *high net worth illustration* provided by a *firm* must be limited to facilities provided under a *regulated mortgage contract*.

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■ MCOB 5.6.31 R(2), ■ MCOB 5.6.52 R(1) and ■ MCOB 5.6.52 R(4) prescribe text that should be used to remind a *customer* with an *interest-only mortgage* that there is a need to separately arrange for the repayment of capital. The options for repayment of capital may be different where the *regulated mortgage contract* is for a business purpose or a *high net worth mortgage customer*, and a *firm* must vary the prescribed wording in the *business illustration* or *high net worth illustration* to reflect this. One approach may

be for the *firm* to revise the wording to reflect how the *customer* has said he will repay the capital.

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- (1) When providing a *business illustration* or *high net worth illustration* in accordance with ■ MCOB 5.7.2 R a *firm* should describe facilities provided under the *regulated mortgage contract* that are not a loan within section 12 (Additional features) of the *business illustration* or *high net worth illustration*.
- (2) In complying with (1), a *firm* should follow the requirements in ■ MCOB 5.6.92 R ■ MCOB 5.6.108 G where these are relevant. Where the facility is of a type not considered in ■ MCOB 5.6.92 R ■ MCOB 5.6.108 G the *firm* should provide in section 12:
 - (a) a brief description of the facility involved;
 - (b) the term of the facility if different from the term described elsewhere in the *business illustration* or *high net worth illustration*; and
 - (c) a summary of any charges, including any *early repayment charges*, which apply to the operation of the facility.
- (3) Full information on any facility described in section 12 must be provided in supplementary materials that accompany the *business illustration* or *high net worth illustration*.

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- (1) In accordance with ■ MCOB 5.7.6 R(1), where the *regulated mortgage contract* includes a loan, the facilities described in section 12 of the *business illustration* or *high net worth illustration* should include the existence of, and a simple explanation of, any all monies charge, any contingent liabilities such as guarantees and so on.
- (2) Where the *regulated mortgage contract* includes more than one loan facility (such as a secured loan and a separate secured overdraft facility) the *business illustration* or *high net worth illustration* should be based upon the primary facility and describe any other loan within section 12.