

## Chapter 6

# Disclosure at the offer stage

## 6.4 Mortgages: content of the offer document

- 6.4.1** R (1) If a *firm* offers to entering into a regulated mortgage contract with a *customer*, it must provide the *customer* with an *offer document* containing an *illustration*.
- (2) The *firm's* offer in the *offer document* must be on the basis of the information set out in the *illustration* provided in accordance with (1).

**6.4.2** G

### Records

- 6.4.3** R (1) A *firm* must make an adequate record of each *offer document* which it issues to a *customer* in accordance with ■ MCOB 6.
- (2) The record required by (1) must be retained for a year from the date that the *offer document* is issued to the *customer*.
- (3) If, in accordance with ■ MCOB 6.5 (Information to be provided in the offer document or separately), information is included in a separate document that is sent with the *offer document*, that information must also be retained as part of the record required by (1).

### Modifications to the illustration

- 6.4.4** R The *illustration* provided as part of the *offer document* in accordance with ■ MCOB 6.4.1 R (1) must meet the requirements of ■ MCOB 5.6 (Content of illustrations) with the following modifications:
- (1) the *illustration* must be suitably adapted and revised to reflect the fact that the *firm* is making an offer to a *customer* and updated to reflect changes to, for example, the interest rate, charges, the exchange rate or the APR required by ■ MCOB 10 (Annual Percentage Rate), at the date the *illustration* is issued;
- (2) ■ MCOB 5.6.2 R (2) (a) does not apply;
- (3) ■ MCOB 5.6.15 R (Information to be included at the head of the illustration) does not apply;
- (4) ■ MCOB 5.6.16 R (Section 1: 'About this illustration') is replaced by the following: "Section 1: 'About this offer document': Under the section

heading 'About this offer document', the following text must be included:

- (a) 'You are not bound by the terms of this offer document until [insert relevant circumstances, including the names of any documents that must be signed. For example "you have signed the legal charge and the funds are released for your mortgage"]. We are required by the Financial Conduct Authority (FCA) - the independent watchdog that regulates financial services - to provide you with this offer document.'; and
  - (b) (unless ■ MCOB 6.6.1 R applies)"You should compare this offer document with the key facts illustration given to you before you applied for this mortgage, to see how the details may have changed.";
- (5) Unless (b) applies, ■ MCOB 5.6.17 R (Section 2: 'Which service are we providing you with?') is replaced with the following:"Section 2: 'Which service did we provide you with?'
- (a) Under the section heading 'Which service did we provide you with?' the following text should be presented as two options each with a 'check box', one of which must be marked prominently to indicate the level of service provided to the *customer*:'We have recommended, having assessed your needs, that you take out this mortgage. We have not recommended a particular mortgage for you. You must make your own choice whether to accept this mortgage offer.';
  - (b) If the service described in ■ MCOB 5.6.17 R (Section 2: 'Which service are we providing you with?') was provided by another *firm*, ■ MCOB 5.6.17 R is replaced by the following:"Section 2: 'Which service were you provided with?'Under the section heading 'Which service were you provided with?' the following text should be presented as two options each with a 'check box' one of which must be marked prominently to indicate the level of service provided to the *customer*:'[name of firm] recommended that you take out this mortgage.[name of firm] did not recommend a particular mortgage for you. You must make your own choice whether to accept this mortgage offer.';
- (6) ■ MCOB 5.6.29 R (2) does not apply;
- (7) ■ MCOB 5.6.52 R to ■ MCOB 5.6.53 G is replaced by the following:Where all or part of the *regulated mortgage contract* is an *interest-only mortgage*, the *illustration* in the *offer document* must:
- (a) clearly state that the payments on the *regulated mortgage contract* cover only interest, and not the capital borrowed; and
  - (b) [deleted]
  - (c) include a statement reminding the *customer* to check regularly the performance of any *investment* used as a *repayment strategy*, to see whether it is likely to be adequate to repay the capital and, where applicable, pay the interest accrued at the end of the term of the *regulated mortgage contract*;
- (7A) The *illustration* may state the *repayment strategy* the *customer* intends to use.

- (8) the fees recorded in the *illustration* that is part of the *offer document* in accordance with ■ MCOB 5.6.66 R (1) must include any fees paid or payable by the *customer*;
- (9) ■ MCOB 5.6.69 R (5) is replaced by the following: '(where the fee is payable or has been paid to the *mortgage lender*), whether or not the fee is refundable, and if so, the extent to which it is refundable;'
- (10) [deleted]
- (11) where additional features are included in accordance with ■ MCOB 5.6.92 R and these are credit facilities that meet the definition of a *regulated credit agreement* regulated by the Consumer Credit Act 1974 and the *Act*, the relevant parts of Section 12 of the *illustration* that is part of the *offer document* must include the following text: "This credit facility is regulated under the Consumer Credit Act 1974 and the Financial Services and Markets Act 2000. Please refer to the separate credit agreement which describes the facility and the terms on which the credit is available";
- (12) The text required by ■ MCOB 5.6.102 R (2) (a) or (b) should be adapted to include, or tell the *customer* where they can find, the information required by ■ MCOB 6.5.4 R; and
- (13) ■ MCOB 5.6.113 R applies to the *illustration* that is part of the *offer document* if the *illustration* given out in accordance with ■ MCOB 5 (Pre-application disclosure) was issued by, or on behalf of, a *mortgage intermediary*.

6.4.5

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- (1) One consequence of ■ MCOB 6.4.4 R(5)(b) is that the *mortgage lender* will need to know, for each individual transaction *arranged* by a *mortgage intermediary*, whether or not the *customer* has received advice from that *mortgage intermediary*.
- (2) When complying with ■ MCOB 6.4.4 R(5)(b), *mortgage lenders* may wish to include a statement after the level of service in Section 2 confirming that the level of service described was given by another *firm*, and explaining that they, as the *mortgage lender*, are not responsible for the level of service given, and that the *customer* should contact the other *firm* if they have any queries about the level of service provided. For example: "If you have any queries about this service, you should contact [Name of firm]. [Name of lender] is not responsible for the advice or information you received."

6.4.6

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In adapting and revising the *illustration* that is part of the *offer document* in accordance with ■ MCOB 6.4.4 R(1) a *firm* must:

- (1) avoid amending the format of the information required by ■ MCOB 5.6 (Content of illustrations) where possible, since this could result in the *illustration* in the *offer document* being difficult to compare with the *illustration* originally provided to the *customer* in accordance with ■ MCOB 5.5.1 R;
- (2) use, where possible, the same headings, ordering of information, and language that appeared in the *illustration* provided in accordance with ■ MCOB 5.6 (Content of illustrations); and

- (3) only change section headings where necessary (for example 'What you have told us' could be renamed 'Your mortgage requirements').
- 6.4.7** **R** In adapting and revising the *illustration* in accordance with **■ MCOB 6.4.4 R(1)**, a *firm* may:
- (1) add extra information at the beginning and end of the *illustration*, such as conditions which are not covered by the *illustration*;
  - (2) include greater detail within each of the specified sections than that included in an *illustration* provided in accordance with **■ MCOB 5** (Pre-application disclosure); and
  - (3) leave blank, except for the text 'not applicable', sections that are irrelevant, such as:
    - (a) the section on insurance (see **■ MCOB 5.6.73 R** to **■ MCOB 5.6.83 G**), where the *customer* is not buying insurance from the *firm* and the *firm* does not require insurance to be in place; and
    - (b) the section and sub-sections on additional features (see **■ MCOB 5.6.92 R** to **■ MCOB 5.6.112 G**) if there are no additional features available.
- 6.4.8** **G** Examples of the additional information that should be included in the *offer document* in accordance with **■ MCOB 6.4.7 R (1)** or **■ MCOB 6.4.7 R (2)** is information about any retentions or reinspections that will be required by the *firm*.
- 6.4.9** **R** A *firm* must ensure that the *illustration* forms the main, and an integral, part of the *offer document*.
- 6.4.10** **G** **■ MCOB 6.4.9 R** prevents a *firm* from preparing a separate *illustration* and simply adding it to the existing material provided to the *customer* at the offer stage.

**Other information contained in the offer**

- 6.4.11** **R** A *firm* must ensure that the *offer document* contains a prominent statement:
- (1) of the period for which the offer is valid;
  - (2) explaining, where the *regulated mortgage contract* contains features, such as additional unsecured borrowing facilities, which could result in the *customer* borrowing more money, that where such features are used, the amount of the *customer's* debt will increase;
  - (3) explaining when any interest rate change on the *regulated mortgage contract* takes effect. This statement must be used, for example, to explain cases where an annual review system is used;
  - (4) explaining the consequences that might arise from the *customer* not entering into the *regulated mortgage contract*, including any fees that the *customer* has paid which will not be reimbursed;

(5) explaining that once the *regulated mortgage contract* is concluded there will be no right of withdrawal; and

(6) explaining that although no right of withdrawal exists the *customer* will have a right to repay the *regulated mortgage contract* in accordance with the terms of the *regulated mortgage contract*.

**6.4.11A** **R** If the *illustration* provided by the *firm* to the *customer* does not state the *repayment strategy* the *customer* intends to use, as permitted by **■ MCOB 6.4.4 R (7A)**, that information must be included in the *offer document*.

**6.4.12** **G** In complying with **■ MCOB 6.4.11 R (6)** the *firm* is not required to repeat in this section of the *offer document* the cash amounts of the *early repayment charges* set out in the *illustration* provided as part of the *offer document*. The *firm* may instead insert a reference to the relevant section of that *illustration*.

**6.4.13** **R** A *firm* must ensure that the contact details section of the *offer document* (as required by **■ MCOB 5.6.122 R**) also includes information on how to complain to the *firm* about the services provided by the *firm* in relation to the *regulated mortgage contract* and whether or not complaints may subsequently be referred to the *Financial Ombudsman Service*.

**6.4.14** **G** **■ DISP 1** requires a *firm* to deal promptly and fairly with *complaints*, including referring to another *firm* *complaints* about that other *firm's* services.

**6.4.15** **G** In addition to the information required by **■ MCOB 6.4.13 R**, a *firm* may include information about how to complain to any other *firm* about the services that *firm* provided to the *customer* in relation to the *regulated mortgage contract*. For example, where the *customer* received advice from another *firm*, a *mortgage lender* may include contact details for the *firm* that provided the advice.

**6.4.16** **R** If the *firm* knows at the point that the offer is made to the *customer* that its interest in the *regulated mortgage contract* will be assigned (by sale or transfer) and the *firm* will no longer be responsible for setting interest rates and charges, the *offer document* must:

(1) state this; and

(2) state, where known, who will be responsible for setting interest rates and charges after the sale or transfer.

**6.4.17** **R** Where **■ MCOB 6.4.16 R** applies, if the name of the party who will be responsible for setting interest rates and charges after the sale or transfer is

not known at the point the offer is made, the *firm* must notify the *customer* of this as soon as it becomes known.

**6.4.18**

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■ MCOB 6.4.16 R and ■ MCOB 6.4.17 R could apply where the ownership of a *regulated mortgage contract* is transferred to a third party through *securitisation*.