Mortgages and Home Finance: Conduct of Business Sourcebook

Chapter 8

Equity release: advising and selling standard



8.6A **Execution-only sales**

Scope and application of this section

8.6A.1 G

- (1) MCOB 8.6A provides that a *firm* may only enter into an *equity* release transaction with a customer, or arrange such a transaction for a customer, as an execution-only sale if the customer has rejected advice, identified the product he wishes to purchase and positively elected to proceed with an execution-only sale.
- (2) The aim of MCOB 8.6A is to ensure that, in all sales of equity release transactions, there is one firm which advises the customer on the equity release transaction and, where applicable, is responsible for ensuring that the conditions for an execution-only sale are satisfied. So, as provided in ■ MCOB 8.1.2A R, ■ MCOB 8.6A only applies to equity release providers in relation to entering into equity release transactions where there is no firm which is arranging the transaction and to which ■ MCOB 8.6A applies.

The customer's best interests

8.6A.2 G

Firms are reminded that ■ MCOB 2.5A.1 R (The customer's best interests) applies in all cases, including in relation to execution-only sales.

8.6A.3 R A firm must not encourage a customer to reject advice received by him on equity release transactions.

The conditions for execution-only sales

8.6A.4

A firm must not enter into or arrange an execution-only sale for a equity release transaction unless:

- (1) the customer has rejected the advice given by the firm and instead requested an execution-only sale of an equity release transaction;
- (2) the customer has identified which particular equity release transaction he wishes to purchase, and specified to the firm at least the required additional information (where applicable);
- (3) after providing the required information in (2), the customer has been informed, clearly and prominently and in a durable medium, and that the *customer* will not benefit from the protection of the rules (in ■ MCOB 8.5A) on assessing suitability.

- (a) in any case where the *firm* has advised the *customer* that the *equity release transaction* is unsuitable for the *customer*, that that is the case; and
- (b) in any other case, that in the provision of its services for the execution-only sale the firm is not required to assess the suitability of that equity release transaction;

and in either case that the *customer* will not benefit from the protection of the rules (in ■ MCOB 8.5A) on assessing suitability. In any case where there is spoken dialogue between the *firm* and the *customer* at any point, the *firm* must also provide this information orally; and

(4) after the *customer* has been provided with the information in (3), in any case where there is spoken or other interactive dialogue between the *firm* and the *customer* at any point, the *customer* has confirmed in writing to the *firm* that he is aware of the consequences of losing the protections of the rules on assessing suitability and is making a positive election to proceed with an *execution-only sale*. The written confirmation must be in the same document as the information in *durable medium* in (3), which must be separate from any other information and contractual documentation.

Exception: rate switches and other variations to lifetime mortgages

8.6A.5 R

- (1) The condition in MCOB 8.6A.4R (1) does not apply in the case of a variation of a *lifetime mortgage*, provided that:
 - (a) the variation would not involve the *customer* taking on additional borrowing beyond the amount currently outstanding under the existing *lifetime mortgage*, other than to finance any product fee or arrangement fee for the proposed new or varied contract; and
 - (b) where the variation will (in whole or part) change from one interest rate to another, the *firm* has presented to the *customer*, using a non-interactive channel, all products offered by it for which the *customer* is eligible, whether or not the *customer* then selects from those products using an interactive channel.
- (2) The reference to a variation in (1) (and in all other provisions which cross-refer to this *rule*) must be read as including any new *lifetime mortgage* which would replace an existing *lifetime mortgage* between the *customer* (or, where there are joint borrowers, at least one of them) and the *firm* (either as the original *equity release provider* or as the transferee of the existing contract).

8.6A.6 G

- (1) The variation in MCOB 8.6A.5 R might involve the addition or removal of a borrower for joint mortgages or a change in payment method. This list is not exhaustive.
- (2) Examples of rate changes in MCOB 8.6A.5R (2) are: a transfer from a variable rate to a fixed rate; and a transfer from one fixed rate to another fixed rate.

(3) Firms are reminded that, if their presentation in ■ MCOB 8.6A.5R (1)(b) has (either explicitly or implicitly) steered the customer towards any one or more if the products offered by them such as to constitute advice, the requirements of ■ MCOB 8.5A will apply.

8.6A.7 The required additional information in ■ MCOB 8.6A.4R (2) is:

- (1) for a *lifetime mortgage* other than one falling within MCOB 8.6A.5 R:
 - (a) the name of the mortgage lender;
 - (b) the rate of interest;
 - (c) the interest rate type;
 - (d) the price or value of the property on which the *lifetime* mortgage would be secured (estimated where necessary); and
 - (e) the sum the *customer* wishes to borrow under it, either immediately or in the future (including the amount of any lump sum, any regular drawdown or flexible facility or any combination of amounts the customer wishes to apply for);
- (2) for a home reversion plan:
 - (a) the name of the equity release provider;
 - (b) any initial lump sum required and any lump sum required in the future:
 - (c) the price or value of the property to which the home reversion plan would relate (estimated where necessary); and
 - (d) in the case of a home reversion plan which is not a full reversion, the amount or percentage of the value of the property that the customer wishes to retain.

8.6A.8 Where the information in ■ MCOB 8.6A.4R (3) is given by electronic means, the firm should ensure that the customer cannot progress to the next stage of the sale unless the information has been communicated to the customer.

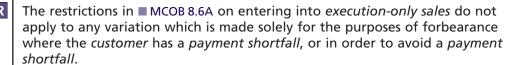
Record keeping

8.6A.9 R

- (1) Whenever a firm enters into or arranges an execution-only sale for an equity release transaction, it must make and maintain a record of:,
 - (a) the required information provided by the customer which satisfies ■ MCOB 8.6A.4R (2);
 - (b) the information in durable medium in MCOB 8.6A.4R (3);
 - (c) the confirmation by the customer in MCOB 8.6A.4R (4) (where applicable); and
 - (d) any advice from the firm which the customer rejected, including the reasons why it was rejected, before deciding to enter into an execution-only sale.
- (2) The record in (1) must be retained for a minimum of three years from the date on which the equity release transactions was entered into or arranged.

Forbearance

8.6A.10



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