

Chapter 1

Application and general provisions

1.1 Application

Application

1.1.1

G

This sourcebook applies to a *firm* with *Part 4A permission* to carry on:

- (1) *insurance distribution activity*;
- (2) *home finance mediation activity*;
- (3) *home financing*;
- (4) *home finance administration*; and
- (5) *insurance business*;

as specified in the beginning of each of the remaining chapters.

1.2 Actions for damages

1.2.1

R

A contravention of the *rules* in this sourcebook does not give rise to a right of action by a *private person* under section 138D of the *Act* (and each of those *rules* is specified under section 138D(3) of the *Act* as a provision giving rise to no such right of action).

1.3 Remuneration and property valuation requirements for MCD creditors

Application

1.3.1 R ■ MIPRU 1.3 applies to an *MCD creditor*.

Property valuation requirements

1.3.2 R For the valuation of residential immovable property to enter into an *MCD credit agreement*:

- (1) an *MCD creditor* must use reliable standards for the valuation where the valuation is carried out by the *MCD creditor*; or
- (2) where the valuation is carried out by a third party, the *MCD creditor* must take reasonable steps to ensure that reliable standards are used.

[Note: article 19(1) of the *MCD*]

1.3.3 G For the purposes of ■ MIPRU 1.3.2 R:

- (1) reliable standards for the valuation of residential immovable property include internationally recognised valuation standards, in particular those developed by the International Valuation Standards Council (IVSC), the European Group of Valuers' Associations (EGoVA) or the Royal Institution of Chartered Surveyors (RICS), as well as the standards in ■ MIPRU 1.3.3AG or, where applicable, ■ MIPRU 4.2F.27 R to ■ MIPRU 4.2F.29 R.

[Note: recital 26 of the *MCD*]

- (2) the *MCD creditor* is not limited to on-site inspections where it is possible to demonstrate that any risks posed have been adequately assessed through the overall collateral management process.

1.3.3A G For the purposes of ■ MIPRU 1.3.3G(1), reliable standards for the valuation of residential immovable property also include the following standards:

- (1) the property must be valued by an independent valuer at or less than the market value. In the *UK* where rigorous criteria for the assessment of the mortgage lending value exist in statutory or

regulatory provisions property may instead be valued by an independent valuer at or less than the mortgage lending value;

- (2) market value means the estimated amount for which the property should exchange on the date of valuation between a willing buyer and a willing seller in an arm's length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion. The market value must be documented in a transparent and clear manner;
- (3) mortgage lending value means the value of the property as determined by a prudent assessment of the future marketability of the property taking into account long-term sustainable aspects of the property, the normal and local market conditions, the current use and alternative appropriate uses of the property. Speculative elements must not be taken into account in the assessment of the mortgage lending value. The mortgage lending value must be documented in a transparent and clear manner; and
- (4) the value of the collateral must be the market value or mortgage lending value reduced as appropriate to reflect the results of any required monitoring and to take account of any prior claims on the property.

1.3.4



An *MCD creditor* must ensure that:

- (1) internal and external appraisers conducting property valuations are professionally competent and sufficiently independent from the credit underwriting process so they can provide an impartial and objective valuation; and
- (2) property valuations are documented in a *durable medium*.

[Note: article 19(2) of the *MCD*]

