MORTGAGE CREDIT DIRECTIVE INSTRUMENT 2015

Powers exercised by the Financial Conduct Authority

A. The Financial Conduct Authority makes this instrument in the exercise of the powers and related provisions in or under:

(1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):

(a) section 137A (The FCA’s general rules);
(b) section 137R (Financial promotion rules);
(c) section 137T (General supplementary powers);
(d) section 139A (Power of the FCA to give guidance);
(e) section 213 (The compensation scheme);
(f) section 214 (General); and
(g) paragraph 19 (Establishment) and 20 (Services) of Schedule 3 (EEA Passport Rights);

(2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.

B. The rule-making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force as follows:

(1) on 21 September 2015 as follows

(a) Part 1 of Annex C;
(b) MIPRU 1.3.2R and MIPRU 1.3.4R in Part 2 of Annex C but only for the purposes of Part 1 of Annex C;
(c) Part 1 of Annex D;
(d) Part 2 of Annex D but only for the purposes of Part 1 of Annex D;
(e) Annex A but only for the purposes of (1)(a), (b), (c) and (d);

(2) on 21 December 2015 as follows:

(a) Part 1 of Annex E but only to the extent that is needed to enable the Financial Conduct Authority to treat a consent notice or a regulator’s notice as effective for the purposes of paragraphs 13(1) or 14(1) of Schedule 3 (as amended) of the Act or a notice of intention as effective for the purposes of paragraphs 19(2) or 20(1) of Schedule 3 (as amended) of
the Act and nothing in this paragraph gives a person a right to carry on, before 21 March 2016, any of the activities covered by the changes set out in Part 1 of Annex E;

(b) Annex A but only for the purposes of (2)(a);

(3) the remainder of this instrument comes into force on 21 March 2016.

Amendments to the Handbook

D. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2) below:

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<td>Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)</td>
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Amendments to the material outside the Handbook

E. The Perimeter Guidance Manual (PERG) is amended in accordance with Annex H to this instrument.

F. The Responsibilities of Providers and Distributors for the Fair Treatment of Customers (RPPD) is amended in accordance with Annex I to this instrument.

Citation

G. This instrument may be cited as the Mortgage Credit Directive Instrument 2015.

By order of the Board of the Financial Conduct Authority

25 March 2015
Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position. This text is not underlined.

**ADR Directive**

**APRC**
the total cost of the credit to the consumer, expressed as an annual percentage of the total amount of credit, where applicable including the costs referred to in MCOB 10A.1.2R and equates, on an annual basis, to the present value of all future or existing commitments (drawdowns, repayments and charges) agreed, or which would be agreed if the MCD credit agreement is entered into, by the MCD creditor and the consumer.

[Note: articles 4(15) and 17(2) of the MCD]

**article 3(1)(b)**
credit agreement

(a) under which the person to whom the credit is provided is a consumer,

(b) the purpose of which is to acquire or retain property rights in land or in an existing or projected building; and

(c) which is not an MCD regulated mortgage contract.

[Note: articles 3(1)(b) and 4(3) of the MCD]

**assisted voluntary sale process**
a process in which a firm assists a customer to sell voluntarily property which is subject to a regulated mortgage contract or home purchase plan with the firm, over and above allowing the customer to remain in possession for a reasonable period to effect a sale.

**borrowing rate**
the interest rate expressed as a fixed or variable percentage applied on an annual basis to the amount of credit drawn down.

[Note: article 4(16) of the MCD and article 3(j) of the Consumer Credit Directive]

**European Standardised Information Sheet (ESIS)**
The pre-contractual disclosure document, the template for which is contained in MCOB 5A Annex 1R, provided to a consumer in accordance with MCOB 5A.
exempt article 3(1)(b) credit agreement

An article 3(1)(b) credit agreement that is:

(a) an MCD exempt bridging loan;

(b) an MCD exempt credit union loan;

(c) an MCD exempt overdraft loan; or

(d) an MCD exempt lifetime mortgage.

exempt MCD credit agreement

An exempt MCD regulated mortgage contract or an exempt article 3(1)(b) credit agreement.

exempt MCD regulated mortgage contract

A regulated mortgage contract that is:

(a) an MCD exempt bridging loan;

(b) an MCD exempt credit union loan;

(c) an MCD exempt overdraft loan; or

(d) an MCD exempt lifetime mortgage.

first charge legal mortgage

A legal mortgage ranking in priority ahead of all other mortgages (if any) affecting the land in question, where “mortgage” includes charge and (in Scotland) a heritable security.

first charge regulated mortgage contract

A regulated mortgage contract in which the mortgage on which the obligation to repay is secured is a first charge legal mortgage.

foreign currency loan

An MCD credit agreement where the credit is:

(a) denominated in a currency other than that in which the consumer receives the income or holds the assets from which the credit is to be repaid; or

(b) denominated in a currency other than that of the EEA State in which the consumer is resident.

[Note: article 4(28) of the MCD]

MCD


MCD article 3(1)(b) credit agreement

An article 3(1)(b) credit agreement which is not an exempt article 3(1)(b) credit agreement.

MCD article 3(1)(b) credit

(a) an MCD credit broker; or

(b) an MCD credit adviser.
intermediary

[Note: article 4(5) and (21) of the MCD]

MCD article 3(1)(b) credit intermediation activity

the activity of acting as an MCD article 3(1)(b) credit intermediary.

[Note: article 4(5) and (21) of the MCD]

MCD article 3(1)(b) creditor

a firm with permission for entering into a regulated credit agreement as lender which, by way of business and for remuneration (which may take a pecuniary form or any other agreed form of financial consideration), grants or promises to grant an MCD article 3(1)(b) credit agreement.

[Note: article 4(2) of the MCD]

MCD contingent liability or guarantee

an MCD credit agreement which acts as a guarantee to another separate, but ancillary, transaction and where the capital secured against an immovable property is only drawn down if an event specified in the contract occurs.

[Note: article 4(24) of the MCD]

MCD credit adviser

a firm with permission (or which ought to have permission) to carry on the activity, by way of business, of advising on regulated credit agreements for the acquisition of land.

[Note: article 4(21) of the MCD]

MCD credit agreement

an MCD regulated mortgage contract or an MCD article 3(1)(b) credit agreement.

[Note: article 3(1) of the MCD]

MCD credit broker

a credit broker who:

(a) for remuneration (which may take a pecuniary form or any other agreed form of financial consideration), carries out an activity of the kind specified in article 36A(1)(d), (e) or (f) of the Regulated Activities Order in relation to MCD article 3(1)(b) credit agreements; and

(b) is not merely introducing, either directly or indirectly, a consumer to an MCD firm.

[Note: article 4(5) of the MCD]

MCD credit intermediary

an MCD mortgage credit intermediary or an MCD article 3(1)(b) credit intermediary.

[Note: article 4(5) and (21) of the MCD]

MCD credit

the activity of acting as an MCD mortgage credit intermediary or an
intermediation activity

* MCD article 3(1)(b) credit intermediary.

[Note: article 4(5) and (21) of the MCD]

MCD creditor

an MCD mortgage lender or an MCD article 3(1)(b) creditor.

[Note: article 4(2) of the MCD]

MCD exempt bridging loan

a regulated mortgage contract or an article 3(1)(b) credit agreement either of no fixed duration or which is due to be repaid within 12 months, used by the consumer as a temporary financing solution while transitioning to another financial arrangement for the immovable property.

[Note: article 4(23) of the MCD]

MCD exempt credit union loan

a regulated mortgage contract or an article 3(1)(b) credit agreement where the lender is a credit union.

[Note: articles 3(3)(e) and 4(2), (3) of the MCD and article 2(5) of the Consumer Credit Directive]

MCD exempt lifetime mortgage

a regulated mortgage contract or an article 3(1)(b) credit agreement under which the lender:

(a) contributes a lump sum, periodic payments or other forms of credit disbursement in return for a sum deriving from the future sale of residential immovable property or a right relating to residential immovable property; and

(b) will not seek repayment of the capital until the occurrence of one or more of the specified life events, unless the customer breaches their contractual obligations (including any obligation to pay interest during the term) which allows the lender to terminate the agreement.

[Note: article 3(2)(a) of the MCD]

MCD exempt overdraft loan

a regulated mortgage contract or an article 3(1)(b) credit agreement in the form of an overdraft facility and where the credit has to be repaid within one month.

[Note: articles 3(2)(d) and 4(3), (23) of the MCD]

MCD firm

any of the following:

(a) an MCD creditor;

(b) an MCD credit intermediary; or

(c) an MCD mortgage administrator.
MCD lifetime mortgage

a lifetime mortgage which is not an MCD exempt lifetime mortgage.

MCD mortgage administrator

(in MCOB 7A and MCOB 14) a mortgage administrator who administers MCD regulated mortgage contracts.

MCD mortgage adviser

a mortgage adviser who, by way of business, provides a personal recommendation to a consumer in respect of MCD regulated mortgage contracts.

MCD mortgage arranger

a mortgage arranger who:

(a) by way of business and for remuneration (which may take a pecuniary form or any other agreed form of financial consideration), carries out an activity of the kind specified in article 25A(1)(a) or (2A) of the Regulated Activities Order in relation to MCD regulated mortgage contracts; and

(b) is not merely introducing, either directly or indirectly, a consumer to an MCD firm.

MCD mortgage credit intermediary in relation to an MCD regulated mortgage contract:

(a) an MCD mortgage arranger; or

(b) an MCD mortgage adviser.

MCD mortgage credit intermediation activity

the activity of acting as an MCD mortgage credit intermediary.

MCD mortgage lender

a mortgage lender who, by way of business and for remuneration (by pecuniary form or any other agreed form of financial consideration), grants or promises to grant MCD regulated mortgage contracts.

MCD regulated mortgage contract

a regulated mortgage contract entered into on, or after, 21 March 2016, under which the borrower is a consumer and which is not an exempt MCD regulated mortgage contract.
member of staff any individual:

(a) working for a firm who is directly engaged in the activities specified in TC 4.1.6R;

(b) working for a firm or its appointed representative who has contact with a consumer in the course of those activities; or

(c) directly managing or supervising an individual referred to in (a) or (b) above.

[Note: article 4(11) of the MCD]

related person (in relation to a borrower or, in the case of credit provided to trustees, a beneficiary of the trust), a person who is:

(a) that person’s spouse or civil partner;

(b) a person (whether or not of the opposite sex) whose relationship with that person has the characteristics of the relationship between husband and wife; or

(c) that person’s parent, brother, sister, child, grandparent or grandchild.

second charge lender a mortgage lender who grants, or promises to grant, a second charge regulated mortgage contract.

second charge regulated mortgage contract a regulated mortgage contract which is not a first charge legal mortgage.

shared equity credit agreement an MCD credit agreement where the capital repayable is based on a contractually set percentage of the value of the immovable property at the time of the capital repayment or repayments.

[Note: article 4(25) of the MCD]

specified life events (a) the death of the customer; or

(b) the customer leaves the mortgaged land to live elsewhere and has no reasonable prospect of returning (for example, by moving into residential care); or

(c) the customer acquires another dwelling for use as his main residence; or

(d) the customer sells the mortgaged land; or

(e) the lender exercises its legal right to take possession of the mortgaged land under the terms of the contract.
**tied MCD article 3(1)(b) credit intermediary**

An **MCD article 3(1)(b) credit intermediary** who acts on behalf of and under the full and unconditional responsibility of:

(a) only one **MCD article 3(1)(b) creditor**;

(b) only one **group**; or

(c) a number of **MCD article 3(1)(b) creditors** or **groups** which does not represent the majority of the market.

**Note:** Article 4(7) of the MCD

**tied MCD credit intermediary**

A **tied MCD mortgage credit intermediary** or a **tied MCD article 3(1)(b) credit intermediary**.

**Note:** Article 4(7) of the MCD

**tied MCD mortgage credit intermediary**

An **MCD mortgage credit intermediary** who acts on behalf of and under the full and unconditional responsibility of:

(a) only one **MCD mortgage lender**;

(b) only one **group**; or

(c) a number of **MCD mortgage lenders** or **groups** which does not represent the majority of the market.

**Note:** Article 4(7) of the MCD

**total cost of the credit to the consumer**

All costs, including interest, commissions, taxes, valuation fees, and any other fees which are required to be paid by, or on behalf of, the **consumer** in connection with the **MCD credit agreement**. This covers costs payable to the **MCD creditor** or to any other **person** which are known to the **MCD creditor**. It also includes, in calculating the **APRC**, the costs referred to in **MCOB 10A.1.2R** and any fee payable by the **consumer** to an **MCD credit intermediary** for its services in connection with the **MCD credit agreement**. It does not include notarial costs, property transfer registration fees and any charges payable by the **consumer** for non-compliance with obligations under the **MCD credit agreement**.

**Note:** Articles 4(13), 15(4) and 17(2) of the MCD

**tying practices**

The offering or the selling of an **MCD credit agreement** in a package with other distinct financial products or services where the **MCD credit agreement** is not made available to the **consumer** separately.

**Note:** Article 4(26) of the MCD

Amend the following definitions as shown.
arranging (bringing about) regulated mortgage contracts

the regulated activity, specified in article 25A(1) and (2A) of the Regulated Activities Order, which is, in summary, making arrangements for another person to:

(a) for another person to enter into a regulated mortgage contract as borrower; or

(b) for another person to vary the terms of a regulated mortgage contract entered into by him as borrower on or after 31 October 2004; or

(c) to enter into a regulated mortgage contract with a borrower on behalf of a lender.

…

bridging loan

(1) an MCD exempt bridging loan; or

(2) (other than in (1)) a regulated mortgage contract which has a term of twelve months or less.

consumer

[Note: article 2 of the Distance Marketing Directive, article 2 of the Unfair Terms in Consumer Contracts Directive (93/13/EEC), article 2 of the E-Commerce Directive, article 4(11) of the Payment Services Directive, and article 3 of the Consumer Credit Directive and article 4(1) of the MCD.]

credit

…

(1) (except in relation to a class of contract of insurance, and a credit-related regulated activity and an MCD credit agreement) …

…

(3) (in relation to a credit-related regulated activity, or operating an electronic system in relation to lending or an MCD credit agreement) …

credit information agency

(j) providing credit references (article 89B); or

(k) advising on regulated credit agreements for the acquisition of land (article 53DA).

customer

…

(1) (except in relation to ICOBS, a credit-related activity, MCOB 3}
3A, an MCD credit agreement and CASS 5) …

(2) (in relation to MCOB 3 3A) …

(2A) (in relation to an MCD credit agreement) a consumer.

EEA firm …

(hh) an AIFM which is authorised (under article 6 of AIFMD) by its Home State regulator;

(hhh) an MCD credit intermediary admitted under article 29(1) of the MCD by its home state regulator to carry out all or part of the activities in article 4(5) of the MCD, or to provide advisory services (as defined in article 4(21) of the MCD):

…

financial promotion …

(3) (in MCOB 3A), in addition to (1), any advertising or marketing communications within the meaning of articles 10 or 11 of the MCD made by an MCD firm in relation to an MCD credit agreement.

[Note: articles 10 and 11 of the MCD.]

financial promotion rules …

(3) (in relation to MCOB) any or all of the rules in MCOB 3A that impose requirements in relation to a financial promotion, but only to the extent that they apply to a financial promotion.

…

group …

(5) …

(6) (in MCOB) a group of MCD creditors which are to be consolidated for the purposes of drawing up consolidated accounts, as defined in Directive 2013/34/EU on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings.

[Note: article 4(6) of the MCD]

lifetime mortgage …

(1) an MCD exempt lifetime mortgage; or

(2) (other than in (1)), a regulated mortgage contract or an article
3(1)(b) credit agreement under which:

... 

(b) the mortgage lender may or may not specify a mortgage term, but will not seek full repayment of the loan (including interest, if any, outstanding) until the occurrence of one or more of the following specified life events; and

(i) the death of the customer; or

(ii) the customer leaves the mortgaged land to live elsewhere and has no reasonable prospect of returning (for example by moving into residential care); or

(iii) the customer acquires another dwelling for use as his main residence; or

(iv) the customer sells the mortgaged land; or

(v) the mortgage lender exercises its legal right to take possession of the mortgaged land under the terms of the contract.

And

...

mortgage mediation activity (as defined in article 26 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 1) Order 2003 (SI 2003/1475) any of the following regulated activities:

(a) arranging (bringing about) regulated mortgage contracts (article 25A(1) and (2A));

...

overdraft facility (1) (in CONC App 1.2) an explicit agreement whereby a lender makes available to a borrower funds which exceed the current balance in the borrower’s current account.

(2) (in MCOB 10A) an explicit agreement whereby an MCD creditor makes available to a consumer funds which exceed the current balance in the consumer’s current account

[Note: Annex I Part II of the MCD and article 3(d) of the Consumer Credit Directive]

price information ...
(b) the presence or absence of any payments, fees or charges (other than the fees for advising on or arranging a regulated mortgage contract as required by MCOB 3.6.27R); or

... private person ...

(c) a relevant recipient of credit (within the meaning of article 60L of the Regulated Activities Order) who is not an individual and who has suffered the loss in question in connection with an activity of the kind specified by article 36A, 39D, 39E, 39F, 39G, 53DA, 60B ...

... regulated activity ...

(ga) arranging (bringing about) regulated mortgage contracts (article 25A(1) and (2A));

...

(pd) ...

(pe) advising on regulated credit agreements for the acquisition of land (article 53DA);

...

regulated mortgage activity any of the following activities specified in Part II of the Regulated Activities Order (Specified Activities):

(a) arranging (bringing about) regulated mortgage contracts (article 25A(1) and (2A));

...

regulated mortgage contract (a) (in relation to a contract) a contract which:

(i) (in accordance with article 61(3) of the Regulated Activities Order) at the time it is entered into, meets the following conditions:

...

(B) the obligation of the borrower to repay is secured by a first legal mortgage on land (other than timeshare accommodation) in the United Kingdom EEA, at least 40% of which is used, or is intended to be used, in the case of credit provided to an individual, as or in connection with a dwelling; or (in the case of credit
provided to a trustee which is not an individual) as or in connection with a dwelling by the borrower or (in the case of credit provided to trustees) by an individual who is a beneficiary of the trust, or by a related person or (in the case of credit provided to trustees) a beneficiary of the trust:

(I) that person’s spouse or civil partner; or

(II) a person (whether or not of the opposite sex) whose relationship with that person has the characteristics of the relationship between husband and wife; or

(III) that person’s parent, brother, sister, child, grandparent or grandchild; and

(ii) is not a home purchase plan, a limited payment second charge bridging loan, a second charge business loan, an investment property loan, an exempt consumer buy-to-let mortgage contract or a limited interest second charge credit union loan within the meaning of article 61A(1) or (2) of the Regulated Activities Order.

(b) …

[Note: articles 3(1)(a) and 4(2) of the MCD]

Single Market Directives

…

(d) …

(da) MCD;

…

Total amount of credit

(1) (in CONC) the credit limit or the total sums made available under a regulated credit agreement.

(2) (in MCOB) the ceiling or the total sums made available under an MCD credit agreement.

[Note: article 4(12) of the MCD]

Total amount payable

(1) (except in CONC or MCOB) the total charge for credit plus the total amount of credit advanced.

…

(3) (in MCOB) the sum of the total amount of credit and the total cost of the credit to the consumer.
[Note: article 4(14) of the MCD]
2.1 Assessing and maintaining competence

...)

2.1.5 Knowledge and competence requirements before starting MCD credit agreement activities

2.1.5A TC 2.1.5BR and TC 2.1.5CR apply to a firm acting as an MCD creditor or an MCD credit intermediary.

2.1.5B A firm must ensure that an employee does not carry on any of the activities 23A to 23E in TC Appendix 1 without having an appropriate level of knowledge and competence, which includes an appropriate:

(1) knowledge of MCD credit agreements and any ancillary services offered by the firm with them;

(2) knowledge of the laws relating to MCD credit agreements for consumers (in particular, consumer protection);

(3) knowledge and understanding of the property purchasing process;

(4) knowledge of security valuation;

(5) knowledge of the organisation and functioning of land registers;

(6) knowledge of the market;

(7) knowledge of business ethics standards;

(8) knowledge of the process of assessing a consumer’s creditworthiness or, where applicable, competence in assessing the consumer’s creditworthiness; and

(9) level of financial and economic competency.

[Note: article 9 and annex III (1) of the MCD]

2.1.5C A firm must not assess knowledge and competence based solely on relevant professional experience. It should also take into account relevant professional qualifications, such as diplomas and degrees, training and competency tests.
2.1.5D  G  For the purposes of assessing the employee’s knowledge and competence, professional experience means their years of employment in areas relating to the origination, distribution or intermediation of MCD credit agreements.

[Note: annex III (3) of the MCD]

2.1.5E  R  A firm must, for the purposes of TC 2.1.5BR, take into account the nature of the employee’s role and their level of responsibility within the firm and decide the appropriate level of knowledge and competence for that employee.

[Note: annex III (3)(b) of the MCD]

2.1.5F  G  Where an employee, carrying on an activity in relation to a regulated mortgage contract, has attained the appropriate qualification required by TC Appendix 1, a firm may for the purposes of TC 2.1.5BR assess that employee as having knowledge and competence. Additionally, firms will need to meet the separate requirements in this sourcebook such as the assessment of competence in TC 2.1.1R.

Maintaining competence

2.1.12  R  …

[Note: article 9(1) of the MCD]

3.1  Record-keeping requirements

3.1.1  R  …

[Note: article 9(4) of the MCD]

<table>
<thead>
<tr>
<th>App 1.1</th>
<th>Activities and Products/Sectors to which TC applies subject to TC Appendices 2 and 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>App 1.1</td>
<td>R</td>
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<tr>
<td></td>
<td>Activity</td>
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Mortgage Activity and *reversion activity* carried on for a *customer*

<table>
<thead>
<tr>
<th>MCD credit agreement activities carried on for <em>consumers</em></th>
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<tbody>
<tr>
<td><strong>manufacturing</strong></td>
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<tr>
<td><strong>entering into a regulated mortgage contract or entering into a regulated credit agreement as lender</strong></td>
</tr>
<tr>
<td><strong>arranging (bringing about) regulated mortgage contracts or acting as an MCD credit broker</strong></td>
</tr>
<tr>
<td><strong>advising on a regulated mortgage contract or advising on a regulated credit agreement for the acquisition of land</strong></td>
</tr>
<tr>
<td><strong>directly managing or supervising employees who carry on any of the MCD credit agreement activities 23A to 23D</strong></td>
</tr>
</tbody>
</table>

*[Note: article 9(1) of the MCD]*

...  

Notes:  

...  

4. In this Appendix, paragraphs 23A, 23B, 23C, 23D and 23E relate to the implementation of article 9(1) of the MCD. The specified activities do not, in and of themselves, attract a qualification requirement.
However, where those activities overlap with those specified under the heading “mortgage activity and reversion activity carried on for a customer”, qualification requirements may apply.

### App 2.1 Territorial scope subject to the limitation in TC Appendix 3

<table>
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<tr>
<th>App 2.1.1</th>
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**UK domestic firm** | **Incoming EEA firm** | **Overseas firm (other than an incoming EEA firm)** |
<table>
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<tr>
<td>...</td>
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<tr>
<td>Any other activity in Appendix 1</td>
<td>...</td>
<td><img src="#" alt="Note: article 9(3)(i) of the MCD" /></td>
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### App 4 Appropriate Qualification tables

**4.1 Appropriate Qualification tables**

<table>
<thead>
<tr>
<th>App 4.1.1</th>
<th>E</th>
<th>Part 1: Activities</th>
</tr>
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<tbody>
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<td></td>
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<td><img src="#" alt="Note: The activity numbers in this table relate to the activities in TC App 1.1.1R. These tables do not cover activities 1, 5, 13A, 13B, 13C, 20A, 21B, 23A, 23B, 23C, 23D, 23E, 24, 25 or 26 as these activities do not have a qualification requirement." /></td>
</tr>
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</table>

### TP 8 Transitional provisions relating to time limits for attaining qualifications

<table>
<thead>
<tr>
<th>8.2</th>
<th>R</th>
<th>An employee who is carrying on the activities specified in TC App 1 of:</th>
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</table>
An employee who is carrying on the activities specified in TC App 1 in relation to a second charge regulated mortgage contract, of:

1. advising; arranging (bringing about) regulated mortgage contracts or home reversion plans or (for a mortgage lender or home reversion provider) an activity which would be arranging (bringing about) but for the exclusion in article 28A Regulated Activities Order (Arranging contracts to which the arranger is a party) for a non-business purpose; or

2. designing scripted questions for execution-only sales of regulated mortgage contracts for a non-business purpose;

as at 21 March 2016 will, for the purposes of TC 2.2A.1R, be regarded as carrying on only such activities with effect from that date and, in relation to such an employee, a firm need not (in relation to such activities only) comply with TC 2.1.6R until 21 September 2018. TP 8.1 does not apply in respect of such an employee.

Insert the following TP after TC TP 8. All the text is new and is not underlined.

**TP 9 – Transitional Provisions relating to MCD credit agreement activities**

<table>
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<tr>
<th>(1)</th>
<th>(2)</th>
<th>(3)</th>
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<th>(5)</th>
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<tbody>
<tr>
<td>Material to which the transitional provision applies</td>
<td>Transitional provision</td>
<td>Transitional provision: dates in force</td>
<td>Handbook provisions: coming into force</td>
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<tr>
<td>9.1</td>
<td>2.1.5B</td>
<td>R</td>
<td>A firm acting as an MCD credit intermediary or an MCD creditor may comply with the TC rules as they were in force at 20 March 2016.</td>
<td>From 21 March 2016 to 21 March 2017</td>
<td>21 March 2016</td>
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<td>[Note: article 43(3) of the MCD]</td>
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<td>9.2</td>
<td>2.1.5C</td>
<td>R</td>
<td>A firm acting as an MCD creditor or an MCD credit intermediary may, until 21 March 2019, assess the knowledge and competency of the relevant employee solely</td>
<td>From 21 March 2016 to 21 March 2019</td>
<td>21 March 2016</td>
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</table>
on the basis of their professional experience.

[Note: annex III (3) of the MCD]
Annex C

Amendments to the Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Part 1: Comes into force on 21 September 2015

TP 1 Transitional Provisions

TP 1.1

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<td>4</td>
<td><strong>MIPRU 1.3.2R</strong> and <strong>MIPRU 1.3.4R</strong></td>
<td><strong>R</strong></td>
<td>A <em>firm</em> to which <strong>MIPRU 1.3.2R</strong> will apply from 21 March 2016 may elect to comply with <strong>MIPRU 1.3.2R</strong> from 21 September 2015. If a <em>firm</em> elects to comply with <strong>MIPRU 1.3.2R</strong>, it must also comply with <strong>MIPRU 1.3.4R</strong>.</td>
<td>21 September 2015 to 20 March 2016</td>
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Part 2: Comes into force on 21 March 2016

After MIPRU 1.2 insert the following new section. This text is new and is not underlined.

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 1.3.2R:

(1) reliable standards for the valuation of residential immovable property include internationally recognised valuation standards, in particular those developed by the International Valuation Standards Committee (IVSC), the European Group of Valuers’ Associations (EGoVA) or the Royal Institution of Chartered Surveyors (RICS), as well as the standards in BIPRU 3.4.77R to BIPRU 3.4.80R or, where applicable, MIPRU 4.2F.27R to 4.2F.29R.

[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.

1.3.4 R 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]

Amend the following text as shown.

2 Insurance and MCD mediation activity: responsibility, knowledge, ability and good repute

2.1 Application and purpose
Application

2.1.1 R This chapter applies to a firm with Part 4A permission to carry on insurance mediation activity or MCD credit intermediation activity.

Purpose

2.1.2 R The main purpose of this chapter is to implement in part the provisions of the Insurance Mediation Directive and the MCD as these apply to firms regulated by the appropriate regulator.

2.2 Allocation of the responsibility for insurance mediation activity or MCD credit intermediation activity

Responsibility for insurance mediation activity or MCD credit intermediation activity

2.2.1 R A firm, other than a sole trader, must allocate the responsibility for the firm's insurance mediation activity or MCD credit intermediation activity to a director or senior manager.

[Note: Article 3(1), fourth paragraph, of the Insurance Mediation Directive and article 29(4)(a), first sentence, of the MCD.]

2.2.2 R The firm may allocate the responsibility for its insurance mediation activity or MCD credit intermediation activity to an approved person (or persons) performing:

…

2.2.3 G (1) Typically a firm will appoint a person performing a governing function (other than the non-executive director function) to direct its insurance mediation activity or MCD credit intermediation activity. Where this responsibility is allocated to a person performing another function, the person performing the apportionment and oversight function with responsibility for the apportionment of responsibilities must ensure that the firm's insurance mediation activity or MCD credit intermediation activity is appropriately allocated.

(3) In the case of a sole trader, the sole trader will be responsible for the firm's insurance mediation activity or MCD credit intermediation activity, as applicable.

2.2.4 G Where a firm has appointed an appointed representative to carry on insurance mediation activity or MCD credit intermediation activity on its behalf, the person responsible for the firm's insurance mediation activity or MCD credit intermediation activity will also be responsible for the insurance mediation activity or MCD credit intermediation activity carried on by an appointed representative.
2.2.5 G The FCA will specify in the Financial Services Register the name of the persons to whom the responsibility for the firm's insurance mediation activity or MCD credit intermediation activity has been allocated by inserting after the relevant controlled function the words "(insurance mediation)" or "(MCD intermediation)". In the case of a sole trader, the FCA will specify in the Financial Services Register the name of the sole trader as the 'contact person' in the firm.

3 Professional indemnity insurance

3.1 Application and purpose

Application

3.1.1 R This chapter applies to a firm with Part 4A permission to carry on any of the activities:

\[\text{(2) home finance mediation activity or MCD article 3(1)(b) credit intermediation activity,}\]

as indicated and unless any of the following exemptions apply:

\[\text{(4) in relation to home finance mediation activity, this chapter does not apply to a firm if:}\]

\[\text{(a) it has net tangible assets of more than £1 million; or any firm which is an MCD mortgage credit intermediary exclusively advising on or arranging second charge regulated mortgage contracts (except for MIPRU 3.2.9AR);}\]

\[\text{(b) the comparable guarantee provisions of (3) apply (as if the firm was carrying on insurance mediation activity) but substituting £1 million for £10 million in (3)(a) and (b); a firm which is not an MCD mortgage credit intermediary if:}\]

\[\text{(i) it has net tangible assets of more than £1 million; or}\]

\[\text{(ii) the comparable guarantee provisions of (3) apply (as if the firm was carrying on insurance mediation activity) but substituting £1 million for £10 million in (3)(a) and (b);}\]

\[\text{...}\]
(6) in relation to home finance mediation activity or MCD article 3(1)(b) credit intermediation activity, this chapter does not apply to an authorised professional firm which is not an MCD credit intermediary:

…

(7) in relation to home finance mediation activity or MCD article 3(1)(b) credit intermediation activity, this chapter does not apply to an MCD credit intermediary if it holds a comparable guarantee (as specified in (4)(b)(ii)) against liability arising from professional negligence.

[Note: article 29(2) of the MCD]

(8) in relation to MCD article 3(1)(b) credit intermediation activity, only MIPRU 3.2.9AR applies.

[Note: article 29(2)(a) of the MCD]

3.2 Professional indemnity insurance requirements

…

Minimum limits of indemnity: home finance intermediary that is not an MCD credit intermediary.

3.2.9 R If the firm is a home finance intermediary that is not subject to MIPRU 3.2.9AR, then the minimum limit of indemnity is the higher of 10% of annual income up to £1 million, and:

…

Minimum limits of indemnity: MCD credit intermediaries

3.2.9A R If the firm is:

(1) an MCD article 3(1)(b) credit intermediary; or

(2) a home finance intermediary that is

(a) an MCD mortgage adviser; or

(b) an MCD mortgage arranger

who is not also an MCD mortgage lender carrying out direct sales only:

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then the minimum limit of indemnity is the amount set out in article 1 of the Commission Delegated Regulation (EU) No 1125/2014 which is reproduced in MIPRU 3.2.9BEU.

[Note: article 29(2) of the MCD]

3.2.9B EU The minimum monetary amount of the professional indemnity insurance or comparable guarantee required to be held by credit intermediaries as referred to in the first subparagraph of Article 29(2)(a) of Directive 2014/17/EU shall be:

(a) EUR 460 000 for each individual claim;
(b) in aggregate EUR 750 000 per calendar year for all claims.


4 Capital resources

4.1 Application and purpose

…

4.1.13 G …

Application: MCD firms

4.1.13A R This chapter does not apply to a firm which only carries on one or more of the following:

(1) home finance mediation activity exclusively for second charge regulated mortgage contracts; or

(2) home financing exclusively for second charge regulated mortgage contracts; or

(3) home finance administration exclusively for second charge regulated mortgage contracts.

4.1.13B R For a firm that carries on a combination of home finance mediation activity, home financing and home finance administration, this chapter will only apply to the extent its activities relate to specified investments other than second charge regulated mortgage contracts.

…
4.3 Calculation of annual income

... 

4.3.3 G For a firm which carries on insurance mediation activity or home finance mediation activity, annual income is the amount of all brokerage, fees, commissions and other related income (for example, administration charges, overrides, profit shares) due to the firm in respect of, or in relation to, those activities. But it does not include income generated from carrying on any home finance mediation activity for second charge regulated mortgage contracts.

... 

Annual income for home finance administration

4.3.7 R ... 

4.3.7A R In the calculation of the capital resources of a firm that carries on any home finance administration activity, the annual income does not include annual income from second charge regulated mortgage contracts.

...
Annex D

Amendments to the Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Part 1: Comes into force on 21 September 2015

TP1.1 Transitional Provisions

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<td>The purpose of TPs 22, 24,</td>
<td>21 September 2015 to 20 March 2016</td>
<td>21 March 2016</td>
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<td>26, 28, 30, 32, 34, 36,</td>
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<td>20</td>
<td><em>MCOB</em> TPs 22, 24, 26, 28, 30, 32, 34, 36, 38 and 40</td>
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<td>21</td>
<td><em>MCOB</em> TPs 22, 24, 26, 28, 30, 32, 34, 36, 38 and 40</td>
<td>R</td>
<td>An election to apply any of</td>
<td>21 September 2015 to 20 March 2016</td>
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<td>34, 36, 38 and 40 does not</td>
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<td>imply an election to apply</td>
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<td>any other of TP 22, 24, 26,</td>
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<td>28, 30, 32, 34, 36, 38 and</td>
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<td>22</td>
<td><em>MCOB</em> 2A.1</td>
<td>R</td>
<td>A <em>firm</em> to which <em>MCOB</em> 2A.</td>
<td>21 September 2015 to 20 March 2016</td>
<td>21 March 2016</td>
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<td>2016 may elect to comply</td>
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<td>elects to comply with <em>MCOB</em></td>
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<td>2A.1, it must comply with <em>MCOB</em></td>
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<td>2A.1 and any related</td>
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<td>provisions in full.</td>
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<tr>
<td>23</td>
<td><strong>MCOB TP 22</strong></td>
<td>G</td>
<td>TP 22 allows a firm to apply the MCD requirements relating to remuneration early.</td>
<td></td>
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<tr>
<td>24</td>
<td><strong>MCOB 2A.3, MCOB 7A.4 MCOB 5A, MCOB 6A, MCOB 7B and MCOB 10A</strong></td>
<td>R</td>
<td>A firm to which these provisions will apply from 21 March 2016 may elect to comply with them all, in full, and any related provisions, from 21 September 2015. As such, the rules and other provisions in MCOB 5, MCOB 6, MCOB 7.6.7R to MCOB 7.6.17R and MCOB 10, as in force prior to 21 March 2016, will cease to apply from the date of the election.</td>
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<td>25</td>
<td><strong>MCOB TP 24</strong></td>
<td>G</td>
<td>TP 24 allows a firm to apply the MCD requirements relating foreign currency early.</td>
<td></td>
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<tr>
<td>26</td>
<td><strong>MCOB 3A and MCOB 10A</strong></td>
<td>R</td>
<td>A firm to which these provisions will apply from 21 March 2016 may elect to comply with them all, in full, and any related provisions, from 21 September 2015. As such, the rules and other provisions in MCOB 3 and MCOB 10, as in force prior to 21 March 2016, will cease to apply from the date of the election.</td>
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<td>27</td>
<td><strong>MCOB TP 26</strong></td>
<td>G</td>
<td>TP 26 allows a firm to apply the MCD requirements relating to advertising early.</td>
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<td>28</td>
<td><strong>MCOB 3B</strong></td>
<td>R</td>
<td>A firm to which MCOB 3B will apply from 21 March 2016 may elect to comply with MCOB 3B from 21 September 2015. If the firm elects to comply with MCOB 3B, it must comply with MCOB 3B and any related provisions in full.</td>
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<td>29</td>
<td><strong>MCOB TP 28</strong></td>
<td>G</td>
<td>MCOB TP 28 allows a firm to</td>
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<td>30</td>
<td><strong>MCOB 4.4A.4R(1)(a) and (3), MCOB 4.4A.8R(1)(c) and (d), MCOB 4.4A.8R(2)(e) and MCOB 4A.1</strong></td>
<td>R</td>
<td>A <em>firm</em> to which these provisions will apply from 21 March 2016 may elect to comply with them all, in full, and any related provisions, from 21 September 2015. As such, the <em>rules</em> and other provisions in <em>MCOB 4.4A.8R</em>, <em>MCOB 4.4A.9R</em>, <em>MCOB 4.4A.12R</em>, <em>MCOB 4.4A.18R</em> and <em>MCOB 4.4A.21R</em>, as in force prior to 21 March 2016, will cease to apply from the date of the election.</td>
<td>21 September 2015 to 20 March 2016</td>
<td>21 March 2016</td>
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<tr>
<td>31</td>
<td><strong>MCOB TP 30</strong></td>
<td>G</td>
<td><em>MCOB TP 30 allows a firm to apply the MCD requirements relating to intermediary disclosure early.</em></td>
<td></td>
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<tr>
<td>32</td>
<td><strong>MCOB 4.7A.14AR, MCOB 4.7A.21R, MCOB 4.8A.7R and MCOB 11A</strong></td>
<td>R</td>
<td>A <em>firm</em> to which these provisions will apply from 21 March 2016 may elect to comply with them all, in full, and any related provisions, from 21 September 2015. As such, the <em>rules</em> and other provisions in <em>MCOB 4.7A.21R</em>, and <em>MCOB 4.8A.7R</em>, as in force prior to 21 March 2016, will cease to apply from the date of the election.</td>
<td>21 September 2015 to 20 March 2016</td>
<td>21 March 2016</td>
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<td>33</td>
<td><strong>MCOB TP 32</strong></td>
<td>G</td>
<td><em>MCOB TP 32 allows a firm to apply the MCD requirements relating to creditworthiness early.</em></td>
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<td>34</td>
<td><strong>MCOB 4A.2</strong></td>
<td>R</td>
<td>A <em>firm</em> to which <em>MCOB 4A.2</em> will apply from 21 March 2016 may elect to comply with <em>MCOB 4A.2</em> from 21 September 2015. If the <em>firm</em> elects to comply with <em>MCOB 4A.2</em> early, it must comply with <em>MCOB 4A.2</em> and any</td>
<td>21 September 2015 to 20 March 2016</td>
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<td>related provisions in full from the date of election.</td>
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<td>35</td>
<td><strong>MCOB TP 34</strong></td>
<td>G</td>
<td><em>MCOB TP 34 allows a firm to apply the MCD requirements relating to adequate explanations early.</em></td>
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<td>36</td>
<td><strong>MCOB 4.4A.4R(3) and MCOB 4A.3</strong></td>
<td>R</td>
<td><em>A firm to which these provisions will apply from 21 March 2016 may elect to comply with them all, in full, and any related provisions, from 21 September 2015. As such, the rules and other provisions in MCOB 4.4A.4R(3), as in force prior to 21 March 2016, will cease to apply from the date of the election.</em></td>
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<td>37</td>
<td><strong>MCOB TP 36</strong></td>
<td>G</td>
<td><em>MCOB TP 36 allows a firm to apply the MCD requirements relating to advice early.</em></td>
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<td>38</td>
<td><strong>MCOB 5A, MCOB 6A and MCOB 10A</strong></td>
<td>R</td>
<td><em>A firm to which these provisions will apply from 21 March 2016 may elect to comply with them all, in full, and any related provisions, from 21 September 2015. As such, the rules and other provisions in MCOB 5, MCOB 6 and MCOB 10, as in force prior to 21 March 2016, will cease to apply from the date of the election.</em></td>
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<tr>
<td>39</td>
<td><strong>MCOB TP 39</strong></td>
<td>G</td>
<td><em>MCOB TP 38 allows a firm to apply the MCD requirements relating to pre-contractual information early.</em></td>
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<td>40</td>
<td><strong>MCOB 5A, MCOB 6A, MCOB 7B, MCOB 7.6.18R to MCOB 7.6.26G, MCOB</strong></td>
<td>R</td>
<td><em>(1) A firm to which these new or amended provisions will apply from 21 March 2016 may elect to comply with them all, in full, and any related provisions, from 21 September 2015. As such, the rules and</em></td>
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21 September 2015 to 20 March 2016

21 March 2016
7.6.31R to MCOB 7.6.36G and MCOB 10A
other provisions listed in paragraph (2) below, as in force prior to 21 March 2016, will cease to apply from the date of the election. However, MCOB 7.6.7R to MCOB 7.6.17R will continue to apply, after such an election, to regulated mortgage contracts other than MCD regulated mortgage contracts.

(2) The rules and provisions referred to in paragraph (1) above are those in MCOB 5, MCOB 6, MCOB 7.6.7R to MCOB 7.6.17R (in relation to MCD regulated mortgage contracts), MCOB 7.6.18R to MCOB 7.6.26G, and MCOB 10.

41 MCOB TP 40 G MCOB TP 40 allows a firm to apply the new and amended requirements relating to further advances, rate switches and the addition and removal of parties early.

42 MCOB (all) R A second charge lender who elects, for any particular agreement or proposed agreement, under article 31 of the Mortgage Credit Directive Order 2015 to comply with the provisions of MCOB that will apply to that firm’s activities from 21 March 2016:

(1) must comply with all the provisions of MCOB that will apply to that firm in respect of the agreement from 21 March 2016;
(2) except as provided in (3), need not comply with the provisions of CONC that would otherwise apply in respect of the agreement.

(3) a second charge lender with interim permission must continue to comply with CONC 12.

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
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<th></th>
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</thead>
<tbody>
<tr>
<td>43</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**MCOB TP 42**

G

The restrictions on firms with interim permission in article 59 of SI 2013/1881 continue to apply to a firm using MCOB TP 42.

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>44</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**MCOB TP 42**

G

MCOB TP 42 allows a second charge lender to comply with MCOB early without at the same time needing to comply with CONC, provided that the second charge lender complies with all provisions of MCOB that will apply in respect of the agreement for which the second charge lender has made the election under article 31 of the Mortgage Credit Directive Order 2015.

---

**Part 2: Comes into force on 21 March 2016**

*Editor’s note:* The coming into force of the provisions in Part 2 on 21 March 2016 is subject to a firm’s right to elect to comply with some or all of these provisions earlier, from 21 September 2015 (see MCOB TP 20 to TP 44 in Part 1, above). If a firm makes an election, some or all of these provisions come into force (in accordance with MCOB TP 20 to TP 44) in relation to that firm from the date of the election.

Amend the following text as shown.

1.2 **General application: who? what?**

...  

### 1.2.3C

G  In relation to an *MCD regulated mortgage contract with a high net worth*
mortgage customer, to comply in full with MCOB, a firm does not need to comply with those provisions in MCOB that are expressed not to apply to MCD regulated mortgage contracts.

... 1.2.8 G (1) Firms are reminded of the requirement in MCOB 2.2.6R 3A.2.1R that any communication should be clear, fair, clear and not misleading when substituting an alternative for the term 'mortgage' in accordance with MCOB 1.2.7R(1).

... 1.2.9 G The disclosure rules in MCOB place particular emphasis on the description of borrowing. Where the regulated mortgage contract is for a business purpose or with a high net worth mortgage customer who is not a consumer under an MCD regulated mortgage contract, a firm should reflect this emphasis in any disclosure by first describing any borrowing before addressing the other facilities provided under the regulated mortgage contract.

... 1.2.10 R MCOB does not apply to an authorised professional firm with respect to its non-mainstream regulated activities except for:

(1) MCOB 2.2 (Communications) MCOB 3A (Financial promotions and communications with customers).

(2) MCOB 3 (Financial promotion).

1.2.11 G Authorised professional firms should be aware of the following:

... 1.2.14 G (1) The provisions in the table in (2) apply only in relation to an MCD regulated mortgage contract.

(2) This table belongs to (1).
1.2.15  G  (1)  In the table in (2), the provisions in column (1) apply in relation to an MCD regulated mortgage contract instead of the provisions in column (2).

(2)  This table belongs to (1).

<table>
<thead>
<tr>
<th>(1) MCD requirement</th>
<th>(2) Non-MCD requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>MCOB 5A</td>
<td>MCOB 5</td>
</tr>
<tr>
<td>MCOB 6A</td>
<td>MCOB 6</td>
</tr>
<tr>
<td>MCOB 7B</td>
<td>MCOB 7.6.7R to 7.6.17R</td>
</tr>
<tr>
<td>MCOB 10A</td>
<td>MCOB 10</td>
</tr>
</tbody>
</table>

1.2.16  R  (1)  For any regulated mortgage contract which is not an MCD regulated mortgage contract, a firm may elect to comply with any part of MCOB as if the contract was an MCD regulated mortgage contract.

(2)  Where the contract in (1) is an MCD exempt lifetime mortgage, the firm must continue to provide an illustration in accordance with the
relevant requirements in MCOB, rather than an ESIS.

1.2.17 G The purpose of MCOB 1.2.16R is to allow a firm to apply provisions of MCOB which implement the MCD for an MCD regulated mortgage contract to regulated mortgage contracts that are not MCD regulated mortgage contracts, save in respect of MCD exempt lifetime mortgages where the firm must continue to provide an illustration in accordance with the relevant requirements in MCOB, rather than an ESIS.

1.2.18 R A firm that makes the election in MCOB 1.2.16R to treat an MCD exempt bridging loan as if it were an MCD regulated mortgage contract must calculate the APRC for the MCD exempt bridging loan by applying the following additional assumptions:

1. the total amount of credit must be deemed to be drawn down in full and for the duration of the MCD exempt bridging loan; and

2. if the duration of the MCD exempt bridging loan is not known, the APRC must be calculated on the assumption that the duration of the credit is 12 months.

Identifying MCD credit agreements

1.2.19 G (1) To meet the definition of an MCD credit agreement (including a foreign currency loan), a contract must come within the definition at the time it is entered into.

(2) The effect of (1) is that:

(a) a contract which, at the time it is entered into, comes within the definition of an MCD regulated mortgage contract (and a foreign currency loan where applicable) remains an MCD regulated mortgage contract (and a foreign currency loan where applicable) throughout its remaining term, even if there are subsequent periods of time when some or all of the conditions set out in the definition are not satisfied; and

(b) unless the contract is subsequently replaced with a new contract which meets the conditions in the definition, a contract which does not start out as an MCD regulated mortgage contract or a foreign currency loan cannot subsequently become one, even if the contract is subsequently amended so that it meets all the conditions set out in definition.

Applicability of MCOB to second charge mortgage contracts entered into before 21 March 2016

1.2.20 R From 21 March 2016, where a second charge mortgage contract was entered into before 21 March 2016 (subject to certain exceptions in article 28 of the Mortgage Credit Directive Order 2015) the following provisions of MCOB apply:
(a) **MCOB 7** (disclosure at start of contract and after sale)

(b) **MCOB 12** (charges)

(c) **MCOB 13** (arrears, payment shortfalls and repossessions: regulated mortgage contracts and home purchase plans)

1.3 General application: where?

...  

1.3.2 **R** The territorial scope of **MCOB 3.3A** (Financial promotions and communications with customers) is set out in **MCOB 3.3** (Application: where?), **MCOB 3A.1.13R** to **MCOB 3A.1.16R** (Territorial scope and Exceptions to territorial scope), rather than in this section.

...  

2 Conduct of business standards: general

2.1 Application

...  

2.1.2 **R** This table belongs to **MCOB 2.1.1R**

<table>
<thead>
<tr>
<th>(1) Category of firm</th>
<th>(2) Applicable section</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>mortgage lender</strong></td>
<td>whole chapter except <strong>MCOB 2.2.6AR</strong>, <strong>MCOB 2.2.8AR</strong>, <strong>MCOB 2.2.8BG</strong>, <strong>MCOB 2.6A.1R</strong> to <strong>MCOB 2.6A.18G</strong> and <strong>MCOB 2.8.6G</strong></td>
</tr>
<tr>
<td>...</td>
<td></td>
</tr>
<tr>
<td><strong>home purchase provider</strong></td>
<td><strong>MCOB 2.1</strong>, <strong>MCOB 2.2.1G</strong>, <strong>MCOB 2.2.6R</strong> to <strong>MCOB 2.2.9G</strong>, <strong>MCOB 2.5</strong> to <strong>MCOB 2.6</strong>, <strong>MCOB 2.6A.1R</strong> to <strong>MCOB 2.6A.4G</strong>, <strong>MCOB 2.6A.7G</strong> to <strong>MCOB 2.6A.10G</strong>, <strong>MCOB 2.7.4R</strong> to <strong>MCOB 2.7.6R</strong>, <strong>MCOB 2.7A</strong> and <strong>MCOB 2.8.6G</strong></td>
</tr>
<tr>
<td>...</td>
<td></td>
</tr>
<tr>
<td><strong>reversion provider</strong></td>
<td>whole chapter except <strong>MCOB 2.2.6AR</strong>, <strong>MCOB 2.2.8AR</strong> and <strong>MCOB 2.2.8BG</strong>, <strong>MCOB 2.6A.7G</strong>, <strong>MCOB 2.7.4R</strong> to <strong>MCOB 2.7.6R</strong> and <strong>MCOB 2.8.6G</strong></td>
</tr>
<tr>
<td>...</td>
<td></td>
</tr>
<tr>
<td><strong>SRB administrator</strong></td>
<td><strong>MCOB 2.1</strong>, <strong>MCOB 2.2.1G</strong>, <strong>MCOB 2.2.2G</strong>, <strong>MCOB 2.2.3R</strong>, <strong>MCOB 2.2.6R</strong>, <strong>MCOB 2.2.7G</strong>, <strong>MCOB 2.2.8G</strong>, <strong>MCOB 2.5</strong> to</td>
</tr>
</tbody>
</table>
### MCOB 2.2

MCOB 2.2 is deleted in its entirety. The deleted text is not shown.

#### 2.5A  The customer’s best interests

2.5A.1  R  …

[Note: article 7(1) of the MCD]

#### 2.8  Record keeping

…

2.8.5  G  Each  Except for MCOB 11.6.21AR, each rule in MCOB that requires a record, also sets out a period that the record must be kept for. …

Insert the following new chapter after MCOB 2 Annex 1G. The text is not underlined.
2A    Mortgage Credit Directive

2A.1   Remuneration: MCD regulated mortgage contracts

2A.1.1 R (1) An MCD mortgage lender must not remunerate its members of staff or MCD mortgage credit intermediaries in a way that impedes the MCD mortgage lender from complying with the rules.

(2) An MCD mortgage credit intermediary must not remunerate its members of staff or appointed representatives in a way that impedes the MCD mortgage credit intermediary from complying with the rules.

[Note: article 7(2) of the MCD]

2A.1.2 R When establishing and applying remuneration policies for members of staff who are responsible for the assessment of affordability for consumers, an MCD mortgage lender must comply with the following principles:

(1) be consistent with, and promote, sound and effective risk management;

(2) not encourage risk-taking that exceeds the level of tolerated risk of the MCD mortgage lender;

(3) be in line with the business strategy, objectives, values and long-term interests of the MCD mortgage lender; and

(4) incorporate measures to avoid conflicts of interest, in particular by providing that remuneration is not contingent on the number or proportion of applications accepted.

[Note: article 7(3) of the MCD]

2A.1.3 R An MCD mortgage lender must comply with MCOB 2A.1.2R in a way and to the extent that is appropriate to its size, internal organisation and the nature, scope and complexity of its activities:

[Note: article 7(3) of the MCD]

2A.1.4 R An MCD mortgage adviser, or any other firm that is an MCD mortgage lender or an MCD mortgage arranger that provides advisory services within the meaning of article 4(21) of the MCD, must ensure that the remuneration structure of the members of staff involved does not:

(1) prejudice the ability of the members of staff or the firm to act in the consumer’s best interest; and

(2) be contingent on sales targets.

[Note: article 7(4) of the MCD]
2A.1.5 G The remuneration policies of MCD mortgage lenders and MCD mortgage credit intermediaries, including those that take account of sales volumes, should not be designed in a way that would incentivise their members of staff to conclude a given number or type of MCD regulated mortgage contracts.

2A.2 Tying practices

2A.2.1 R Except in the circumstances specified in MCOB 2A.2.2G, MCOB 2A.2.3R and MCOB 2A.2.4R, neither an MCD mortgage lender nor an MCD mortgage credit intermediary may engage in any tying practice.

[Note: article 12(1) of the MCD]

2A.2.2 G A firm will not be engaging in a tying practice where the financial service or product offered together with the MCD credit agreement cannot be offered separately as it is a fully integrated part of the credit, for example, a secured overdraft.

2A.2.3 R An MCD mortgage lender may request the consumer, family member or close relation of the consumer to:

(1) open or maintain a payment or a savings account, where the only purpose of the account is to accumulate capital to repay the credit, to service the credit, to pool resources to obtain the credit, or to provide additional security for the MCD mortgage lender in the event of default;

(2) purchase or keep an investment product or a private pension product, where such product primarily offers the investor an income in retirement and also serves to provide additional security for the MCD mortgage lender in the event of default or to accumulate capital to repay the credit, to service the credit or to pool resources to obtain the credit; or

(3) conclude a separate MCD regulated mortgage contract in conjunction with a shared equity credit agreement to obtain the credit.

[Note: article 12(2) of the MCD]

2A.2.4 R An MCD mortgage lender may engage in tying practices where it can demonstrate to the FCA that the tied products or categories of product offered, on terms and conditions similar to each other, which are not made available separately, result in a clear benefit to the consumer taking due account of the availability and the prices of the relevant products offered on the market. This rule only applies to products which are marketed after 20 March 2014.
An MCD mortgage lender may require the consumer to hold a relevant insurance policy related to the MCD regulated mortgage contract but, where it does so, the MCD mortgage lender must accept an insurance policy from a supplier different to his preferred supplier where such policy has a level of guarantee equivalent to the one the MCD mortgage lender has proposed.

[Note: article 12(4) of the MCD]

2A.3 Foreign currency loans

2A.3.1 Where an MCD regulated mortgage contract relates to a foreign currency loan, at the time the MCD regulated mortgage contract is entered into the MCD mortgage lender must ensure:

1. the consumer has a right to convert the MCD regulated mortgage contract into an alternative currency under specified conditions; or

2. there are other arrangements in place to limit the exchange rate risk to which the consumer is exposed under the MCD regulated mortgage contract.

[Note: article 23(1) of the MCD]

2A.3.2 The “other arrangements” referred to in MCOB 2A.3.1R(2) may include:

1. a cap; or

2. a risk warning (where a risk warning would be sufficient to limit the exchange rate risk (if any) to which the consumer is exposed).

2A.3.3 Where:

1. an MCD regulated mortgage contract is denominated in the currency of the EEA State in which the consumer is resident (“currency A”); and

2. the consumer receives income or holds assets in currency A but also receives income or holds assets in another currency (“currency B”); the MCD regulated mortgage contract will not be a foreign currency loan unless the credit is to be repaid wholly or in part from the income received or assets held in currency B.

2A.3.4 The alternative currency referred to in MCOB 2A.3.1R(1) must be either:

1. the currency in which the consumer primarily receives income or holds assets from which the credit is to be repaid, as indicated at the
time that the most recent affordability assessment in relation to the 
regulated mortgage contract was made; or  

(2) the currency of the EEA State in which the consumer either was 
resident at the time that the MCD regulated mortgage contract was 
entered into or is currently resident.

[Note: article 23(2) of the MCD]

2A.3.5 R Where a consumer has a right to convert the MCD regulated mortgage contract into an alternative currency in accordance with MCOB 2A.3.1R(1), the exchange rate at which the conversion is carried out must be the market exchange rate applicable on the day of application for conversion, unless otherwise specified in the MCD regulated mortgage contract.

[Note: article 23(3) of the MCD]

2A.3.6 R A firm must disclose to the consumer its arrangements for complying with the obligations in MCOB 2A.3.1R in the MCD regulated mortgage contract.

[Note: article 23(6) of the MCD]

2A.4 Early repayment

2A.4.1 R (1) An MCD mortgage lender must give a consumer who enters into an MCD regulated mortgage contract the right to discharge fully or partially his obligations under that MCD regulated mortgage contract prior to its expiry.

(2) If the consumer exercises the right in (1), the MCD mortgage lender must reduce the total cost of the credit to the consumer by an amount equal to the interest and costs for the remaining duration of the MCD regulated mortgage contract.

[Note: article 25(1) of the MCD]

2A.4.2 R MCOB 2A.4.1R(2) does not prevent an MCD mortgage lender from imposing an early repayment charge in accordance with MCOB 12.3.1R.

2A.4.3 G MCOB 7A.3 sets out the MCOB disclosure rules in relation to early repayment.

2A.5 Variable rate credits

2A.5.1 R Where the borrowing rate under an MCD regulated mortgage contract is variable, the MCD mortgage lender must:

(1) ensure that any index or reference rate used to calculate that rate is
clear, accessible, objective and verifiable by the parties to the _MCD regulated mortgage contract_ and the _FCA_; and

(2) keep a record of the index or reference rate used to calculate that rate for as long as the _MCD regulated mortgage contract_ remains outstanding.

_[Note: article 24 of the _MCD_]_

### 2A.6 Information free of charge

2A.6.1 _R_ When an _MCD mortgage lender_ or an _MCD mortgage credit intermediary_, provides information in compliance with the requirements in _MCOB_ relating to an _MCD regulated mortgage contract_, it must provide that information free of charge.

_[Note: article 8 of the _MCD_]_

MCOB 3 is deleted in its entirety and replaced with MCOB 3A and MCOB 3B. The deleted text is not shown and the new text is not underlined.

### 3A Financial promotions and communications with customers

#### 3A.1 Application and purpose

Who?

3A.1.1 _R_ This chapter applies to a _firm:

(1) communicating information to a _customer_ in relation to a _home finance transaction_; or

(2) communicating or approving a _financial promotion_ of _qualifying credit_, a _home reversion plan_, a _home purchase plan_ or a _regulated sale and rent back agreement_.

3A.1.2 _G_ As a result of this chapter and _CONC 3_:

(1) a _financial promotion_ is not subject to _CONC 3_ to the extent that it relates to _qualifying credit_; and

(2) where a _firm_ makes a communication which consists of a _financial promotion_ of _qualifying credit_ and a _financial promotion_ of a different form of lending that is not _qualifying credit_ (for example, an unsecured personal loan), the content of the latter will need to comply with _CONC 3_.

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Authorised professional firms

3A.1.3 R (1) Except for MCOB 3A.5, MCOB 3A does not apply to an authorised professional firm in relation to the communication of a financial promotion if the following conditions are satisfied:

(a) the firm's main business must be the practice of its profession;
(b) the financial promotion must be made for the purposes of, and incidental to, the promotion or provision by the firm of:
   (i) its professional services; or
   (ii) its non-mainstream regulated activities (see PROF 5.2 (Nature of non-mainstream activities)); and
(c) the financial promotion must not be communicated on behalf of another person who would not be able lawfully to communicate the financial promotion if they were acting in the course of business.

(2) in (1)(a), a firm’s professional business practice is not the “main business” of the firm unless the proportion of income it derives from professional fees is, during its annual accounting period, at least 50% of the firm’s total income (a temporary variation of not more than 5% may be disregarded for this purpose).

(3) in (1)(b)(i), “professional services” means services:
   (a) which do not constitute a regulated activity; and
   (b) the provision of which is supervised and regulated by a designated professional body.

Application for a financial promotion of qualifying credit

3A.1.4 R This chapter applies to the communication or approval of a financial promotion of qualifying credit as follows:

<table>
<thead>
<tr>
<th>Application and purpose</th>
<th>MCOB 3A.1</th>
</tr>
</thead>
<tbody>
<tr>
<td>The fair, clear and not misleading rules</td>
<td>MCOB 3A.2, except MCOB 3A.2.5R</td>
</tr>
<tr>
<td>Other general requirements for financial promotions</td>
<td>MCOB 3A.3</td>
</tr>
<tr>
<td>Qualifying credit financial promotions</td>
<td>MCOB 3A.4</td>
</tr>
</tbody>
</table>
### Application for a financial promotion of a home reversion plan

**3A.1.5 R** This chapter applies to the *communication or approval of a financial promotion of a home reversion plan* as follows:

<table>
<thead>
<tr>
<th>Application and purpose</th>
<th>MCOB 3A.1</th>
</tr>
</thead>
<tbody>
<tr>
<td>The fair, clear and not misleading rules</td>
<td>MCOB 3A.2, except MCOB 3A.2.5R</td>
</tr>
<tr>
<td>Other general requirements for financial promotions</td>
<td>MCOB 3A.3</td>
</tr>
<tr>
<td>Home reversion plan financial promotions</td>
<td>MCOB 3A.7</td>
</tr>
<tr>
<td>Systems and controls</td>
<td>MCOB 3A.9</td>
</tr>
</tbody>
</table>

### Application for a financial promotion of a regulated sale and rent back agreement

**3A.1.6 R** This chapter applies to the *communication or approval of a financial promotion of a regulated sale and rent back agreement* as follows:

<table>
<thead>
<tr>
<th>Application and purpose</th>
<th>MCOB 3A.1</th>
</tr>
</thead>
<tbody>
<tr>
<td>The fair, clear and not misleading rules</td>
<td>MCOB 3A.2, except MCOB 3A.2.5R</td>
</tr>
<tr>
<td>Other general requirements for financial promotions</td>
<td>MCOB 3A.3</td>
</tr>
<tr>
<td>Sale and rent back financial promotions</td>
<td>MCOB 3A.8</td>
</tr>
<tr>
<td>Systems and controls</td>
<td>MCOB 3A.9</td>
</tr>
</tbody>
</table>

### Application for a financial promotion of a home purchase plan

**3A.1.7 R** This chapter applies to the *communication or approval of a financial promotion of a home purchase plan* as follows:

| Application and purpose                                      | MCOB 3A.1          |
Fair, clear and not misleading rule for approval of home purchase plan financial promotions

<table>
<thead>
<tr>
<th>Financial Promotions</th>
<th>MCOB 3A.6</th>
</tr>
</thead>
</table>

Exemptions

3A.1.8  R Except for MCOB 3A.2.4R(2) and MCOB 3A.5, this chapter does not apply to a firm in relation to a financial promotion of qualifying credit that is of a kind listed in MCOB 3A.1.9R, except if the firm approves the financial promotion, then the following apply:

1. MCOB 3A.1 (Application and purpose);
2. MCOB 3A.2.4R (Fair, clear and not misleading financial promotions);
3. MCOB 3A.4.4G to MCOB 3A.4.7G (Approval of qualifying credit promotions; No approval of real time qualifying credit promotions; Approval of qualifying credit promotions when not all the rules apply); and
4. if the firm approves a non-real time financial promotion of qualifying credit by an overseas person MCOB 3A.4.8R (Non-real time qualifying credit promotions for overseas persons) applies.

3A.1.9  R This table belongs to MCOB 3A.1.8R.

Exemptions

This chapter does not apply to the following:

(1) a financial promotion which contains only one or more of the following

(a) the name of the firm (or its appointed representative);
(b) a logo;
(c) a contact point (address (including an email address), telephone or facsimile number);
(d) a brief, factual statement of the firm's (or its appointed representative's) main occupation;

(2) a financial promotion which can lawfully be communicated by an unauthorised person without approval;
(3) a financial promotion communicated from outside the United Kingdom which would be exempt under articles 30, 31, 32 or 33 of the Financial Promotion Order (Overseas communicators) if the office from which the financial promotion is communicated were a separate unauthorised person (but see GEN 4.4.1R (Business for private customers from non-UK offices)).

Combination of exemptions

3A.1.10 R A firm may rely on more than one exemption in relation to the same financial promotion.

Other relevant handbook rules

3A.1.11 G Firms are reminded that financial promotions (including those which are exempt) may be subject to more general rules, including Principle 7 (Communications with clients), SYSC 3 to SYSC 10 (Systems and controls), and MCOB 3A.2.4R (Fair, clear and not misleading communications).

Territorial scope

3A.1.12 G The territorial scope for rules relating to communicating information to a customer is set out in MCOB 1.3.1R.

3A.1.13 R This chapter applies to a firm in relation to:

(1) the communication of a financial promotion to a person in the United Kingdom;

(2) the communication of a cold call of qualifying credit, a home reversion plan or a regulated sale and rent back agreement, unless it is made from a place, and for the purposes of a business which is only carried on, outside the United Kingdom;

(3) the approval of a non-real time financial promotion of qualifying credit, a home reversion plan or a regulated sale and rent back agreement for communication to a person in the United Kingdom;

(4) the communication or approval for communication of a financial promotion that is an electronic commerce communication to a person in an EEA State other than in the United Kingdom; and

(5) the communication or approval for communication of a financial promotion in relation to an MCD regulated mortgage contract to a person in an EEA State other than in the United Kingdom.

3A.1.14 G The application under MCOB 3A.1.13R is relevant both when a firm communicates a financial promotion itself and when a firm approves a non-real time financial promotion for communication by others. However, see also MCOB 3A.1.15R (Exceptions to territorial scope: rules
without territorial limitation for approval of financial promotions).

Exceptions to territorial scope: rules without territorial limitation for approval of financial promotions

3A.1.15 R Subject to MCOB 3A.1.16R, the following parts of this chapter apply without any territorial limitation if a firm approves a financial promotion of qualifying credit, a home reversion plan or a regulated sale and rent back agreement:

(1) MCOB 3A.1 (Application and purpose);

(2) rules requiring a financial promotion to be fair, clear and not misleading (see MCOB 3A.2.4R); and

(3) provisions regarding the approval of financial promotions (except those relating to approval of financial promotions of qualifying credit provided by an overseas person) (see MCOB 3A.4.4G to MCOB 3A.4.7G, MCOB 3A.7.1R and MCOB 3A.8.5R).

Exceptions to territorial scope: financial promotions of qualifying credit relating to distance contracts

3A.1.16 R (1) Notwithstanding MCOB 3A.1.13R and MCOB 3A.1.15R, where a firm which satisfies the conditions in (2) communicates a financial promotion of qualifying credit, the rules in (3) do not apply.

(2) The conditions are that:

(a) the firm communicates the financial promotion of qualifying credit from an establishment maintained by the firm in an EEA State other than the United Kingdom, and not from an establishment maintained by the firm in the United Kingdom or outside the EEA;

(b) either that EEA State:

(i) has implemented the Distance Marketing Directive; or

(ii) has obligations in its domestic law corresponding to those provided for by the Distance Marketing Directive;

(c) the financial promotion of qualifying credit relates, exclusively, to a distance contract, for the conclusion of which the obligations provided for by the Distance Marketing Directive (or corresponding obligations) are applied by that state; and

(d) the firm is a national of an EEA State or a company or firm mentioned in article 54 of the Treaty.
(3) The rules which do not apply are:

(a) MCOB 3A.3.2R (Name and contact point); and

(b) MCOB 3A.4.1R(1) and (2) (Real time qualifying credit promotions).

Principles 6 and 7

3A.1.17 G This chapter amplifies, for activities within its scope, Principle 6 (Customers' interests) and Principle 7 (Communications with clients).

3A.2 The fair, clear and not misleading rules

Fair, clear and not misleading communications

3A.2.1 R (1) When a firm communicates information to a customer, it must take reasonable steps to do so in a way that is fair, clear and not misleading.

(2) A firm must be able to show that it has taken reasonable steps to ensure that any illustration or ESIS is fair, clear and not misleading.

3A.2.2 G The purpose of MCOB 3A.2.1R is to restate, in a slightly amended form and as a separate rule, the part of Principle 7 (Communications with clients) that relates to communication of information.

Communications to customers with different addresses

3A.2.3 G Where:

(1) there are two or more customers or prospective customers in relation to the same home finance transaction;

(2) a rule in MCOB requires the provision of information to such customers; and

(3) the customers have different addresses

a firm should send the information to each address. If the customers share the same address, it will be sufficient to send a single copy of the information addressed to each of the customers.

Fair, clear and not misleading financial promotions

3A.2.4 R (1) A firm communicating or approving a non-real time financial promotion of qualifying credit other than in (2), for a home reversion plan or a regulated sale and rent back agreement must be able to show that it has taken reasonable steps to ensure that the
non-real time financial promotion is fair, clear and not misleading.

(2) A firm communicating a financial promotion, or approving a non-real time financial promotion in relation to an MCD regulated mortgage contract must ensure that it:

(a) is fair, clear and not misleading; and

(b) in particular, does not contain wording that may create false expectations for a consumer regarding the availability or the cost of a credit.

[Note: article 10 of the MCD]

Fair, clear and not misleading rule: approval of home purchase plan financial promotions

3A.2.5 R A firm which approves a financial promotion of a home purchase plan must take reasonable steps to ensure that the financial promotion is fair, clear and not misleading.

Restrictions on use of terms

3A.2.6 R Any communication, including a non-real time financial promotion, must describe:

(1) any early repayment charge as an “early repayment charge” and not use any other expression to describe such charges;

(2) any higher lending charge as a “higher lending charge” and not use any other expression to describe such charges;

(3) any lifetime mortgage as a “lifetime mortgage” and not use any other expression to describe such a mortgage;

(4) any home reversion plan as a “home reversion plan” and not use any other expression to describe it; and

(5) any regulated sale and rent back agreement as a “sale and rent back agreement” and not use any other expression such as “equity release” to describe it.

3A.3 Other general requirements for financial promotions

Financial promotions to be balanced and with appropriate warnings

3A.3.1 R A firm which communicating or approving a financial promotion within MCOB 3A.2.4R must, in addition, ensure that the financial promotion:

(1) is accurate;
(2) is balanced and, in particular, does not emphasise any potential benefits of the MCD regulated mortgage contract, other qualifying credit, home reversion plan or regulated sale and rent back agreement without also giving a fair and prominent indication of any relevant risks;

(3) is sufficient for, and presented in a way that is likely to be understood by, the average member of the group to whom it is directed, or by whom it is likely to be received;

(4) makes it clear, where applicable, that the credit is secured on the customer’s home;

(5) does not disguise, omit, diminish or obscure important items, statements or warnings; and

(6) where it contains a comparison or contrast, presents the comparison or contrast in a fair and balanced way and ensures that it is meaningful.

Name and contact point

3A.3.2 R A non-real time financial promotion must contain the name of the firm or its appointed representative and either an address or a contact point from which an address is available.

Solicited financial promotions

3A.3.3 R A financial promotion is not a solicited financial promotion unless a firm ensures that:

(1) it is clear from all the circumstances when the call, visit or dialogue is initiated or requested that, during the course of the visit, call or dialogue, a financial promotion would be made; and

(2) a person is not to be treated as expressly requesting a call, visit or dialogue:

(a) because they omit to indicate that they do not wish to receive any or any further visits or calls or to engage in any or any further dialogue;

(b) because they agree to standard terms that state that such visits, calls or dialogues will take place, unless they have signified clearly that, in addition to agreeing to the terms, they are willing for them to take place.

3A.3.4 R If a financial promotion is solicited by a person (“R”), it is treated as also having been solicited by any other person to whom it is made at the same time as R if that other person is a close relative of R or is expected to enter into a home reversion plan, a regulated sale and rent back agreement.
agreement or any contract for qualifying credit jointly with R.

Prohibition on cold calls

3A.3.5 R A firm must not make a cold call of qualifying credit, a home reversion plan or a regulated sale and rent back agreement unless the customer has an established existing customer relationship with the firm and the relationship is such that the customer envisages receiving such financial promotions.

3A.4 Qualifying credit financial promotions

Real time qualifying credit promotions

3A.4.1 R A firm must ensure that an individual who makes a real time financial promotion of qualifying credit on the firm's behalf:

(1) makes the purpose(s) of the financial promotion clear at the initial point of communication, and identifies themself and the firm which they represent;

(2) if the time and method of communication were not previously agreed by the recipient:

(a) checks that the recipient wishes them to proceed;

(b) terminates the communication if the recipient does not wish them to proceed (but may ask for another appointment);

(c) recognises and respects, promptly, the right of the recipient to:

(i) end the communication at any time;

(ii) refuse any request for another appointment;

(3) gives any person with whom they arrange an appointment a contact point;

(4) does not communicate with a person:

(a) at an unsocial hour, unless the person has previously agreed to such a communication;

(b) on an unlisted telephone number, unless the person has previously agreed to such calls on that number.

3A.4.2 G In MCOB 3A.4.1R (4)(a) an unsocial hour usually means on a Sunday or before 9am or after 9pm on any other day. It could also mean other days
of the week or other times if the firm knows that a particular customer would not wish to be called on that day or at that time for reasons of, for example, religious faith or night shift working.

3A.4.3 G The requirements of MCOB 3A.4.1R and MCOB 3A.4.2G do not prevent, for example, a telephone call centre which has received a call from a customer at an hour generally regarded as unsocial, either responding to that call or asking during the call if the customer would like details of other qualifying credit.

Approval of qualifying credit promotions

3A.4.4 G Most of the rules in this chapter apply when a firm approves a financial promotion of qualifying credit in the same way as when a firm communicates a financial promotion of qualifying credit itself. Therefore, a firm has a similar responsibility for a financial promotion of qualifying credit that it approves, as for one that it communicates.

No approval of real time qualifying credit promotions

3A.4.5 R A firm must not approve a financial promotion of qualifying credit made in the course of a personal visit, telephone conversation or other interactive dialogue.

Approval of qualifying credit promotions when not all the rules apply

3A.4.6 R If a firm approves a financial promotion of qualifying credit in circumstances in which one or more of the rules in this chapter are expressly disapproved, the approval must be given on terms that it is limited to those circumstances.

3A.4.7 G If an approval is limited under MCOB 3A.4.6R, and an unauthorised person communicates the financial promotion to persons not covered by the approval, the unauthorised person may commit an offence under section 21(1) of the Act (Restrictions on financial promotion). A firm giving a limited approval may wish to advise the unauthorised person accordingly.

Financial promotions for the business of overseas persons

3A.4.8 R A firm must not communicate or approve a financial promotion which relates to qualifying credit provided by an overseas person, unless:

(1) the financial promotion of qualifying credit makes clear which firm has approved or communicated it and, where relevant, explains:

(a) that the rules made under the Act for the protection of customers do not apply;

(b) the extent and level to which the compensation scheme will be available or, if the scheme will not be available, a
statement to that effect; and

c) if the communicator wishes, the protection or compensation available under another system of regulation; and

(2) the firm has taken reasonable steps to satisfy itself that the overseas person will deal with customers in the United Kingdom in an honest and reliable way.

3A.5 MCD financial promotions

3A.5.1 R (1) When communicating or approving a financial promotion concerning an MCD regulated mortgage contract which indicates an interest rate or any figures relating to the cost of the credit to the consumer, a firm must ensure that the financial promotion includes standard information which specifies in a clear, concise and prominent way:

(a) the identity of the MCD creditor or, where applicable, the credit intermediary or appointed representative;

(b) where applicable, that the MCD regulated mortgage contract will be secured by a mortgage or another comparable security or by a right related to residential immovable property;

(c) the borrowing rate, indicating whether this is fixed or variable or a combination of both, together with particulars of any charges included in the total cost of the credit to the consumer;

(d) the total amount of the credit;

(e) the APRC which must be included at least as prominently as any interest rate;

(f) where applicable, the duration of the MCD regulated mortgage contract;

(g) where applicable, the amount of the instalments;

(h) where applicable, the total amount payable by the consumer;

(i) where applicable, the number of instalments; and,

(j) where applicable, a warning regarding the fact that possible fluctuations of the exchange rate could affect the amount payable by the consumer.
(2) The information listed in (1), other than that listed in (a), (b) or (j) thereof, must be specified by means of a representative example.

(3) For the purposes of the requirement in (2), to specify the information in (1), including the APRC, by means of a representative example, an example is not representative unless the firm reasonably expects that at least 51% of consumers:

(a) responding to the financial promotion; and

(b) who enter into a MCD regulated mortgage contract which is the subject of the financial promotion;

would be charged the specified APRC or below.

(4) Where the conclusion of a contract regarding an ancillary service, in particular insurance, is compulsory in order to obtain the MCD regulated mortgage contract or to obtain it on the terms and conditions marketed, and the cost of that service cannot be determined in advance, the obligation to enter into that contract must be stated in a clear, concise and prominent way, together with the APRC.

(5) The information referred to in (1) and (4) must be easily legible or clearly audible as appropriate, depending on the medium used for advertising.

3A.5.2 G Inclusion of a representative example, where required, does not preclude the inclusion of additional cost information, relating to individual products or types of product, subject to this being fair, clear and not misleading. For example, a firm may wish to include a table setting out details of a number of products, for comparative purposes, with the required overall representative example stated (being representative of all agreements expected to result from the financial promotion, and shown with sufficient prominence).

3A.6 Home purchase plan financial promotions

APR equivalent for home purchase plan financial promotions
3A.6.1 R If a firm uses a figure equivalent to an APR in a communication of a financial promotion of a home purchase plan, when calculating that figure it must use an approach equivalent to the APR rules.

3A.7 Home reversion plan financial promotions

No approval of real time home reversion plan promotions

3A.7.1 R A firm must not approve a financial promotion of a home reversion plan made in the course of a personal visit, telephone conversation or other interactive dialogue.

3A.8 Sale and rent back financial promotions

Guidance on fair, clear and not misleading: sale and rent back financial promotions

3A.8.1 G The effect of giving no less prominence to the possible disadvantages than to the benefits associated with a feature will depend on the context of the promotion. The costs, restrictions or conditions relating to a feature, such as any option available, should be detailed for the following non-exhaustive examples:

(1) where any part of the discount on the market value of the property is to be repaid to the consumer after a qualifying period; and

(2) where a consumer is to benefit from shared appreciation in the value of the property.

Ban on SRB leaflet dropping

3A.8.2 R A regulated sale and rent back firm must not communicate an unsolicited financial promotion that relates to a regulated sale and rent back agreement to a potential SRB agreement seller in the form of a leaflet or brochure or similar.

Non-real time financial promotions to customers and advertisements

3A.8.3 R A non-real time financial promotion relating to a regulated sale and rent back agreement and any other advertisement which is issued by a regulated sale and rent back firm that could lead to the conclusion of a regulated sale and rent back agreement, must (unless it is of a kind listed in MCOB 3A.1.9R(1)) contain a risk warning that uses the following wording:

"If you enter into a sale and rent back agreement you are unlikely to get the market value of your home and, as a tenant, may only be able to remain there for a limited period. There may be other options available."
Please ask for a key terms statement."

Exploitation of customer

3A.8.4  R A firm must not in any financial promotion of a regulated sale and rent back agreement exploit the vulnerable nature or circumstances of any customer who may be in financial difficulties and at risk of losing his or her home. As such, the firm must avoid using phrases or terms such as "fast sales", "rescue" or "cash quickly" or any other similar expression.

No approval of real time financial promotions of a regulated sale and rent back agreement

3A.8.5  R A firm must not approve a financial promotion of a regulated sale and rent back agreement made in the course of a personal visit, telephone conversation or other interactive dialogue.

3A.9 Systems and controls

Record keeping

3A.9.1  R A firm must make an adequate record of each non-real time financial promotion of qualifying credit, home reversion plan or regulated sale and rent back agreement which it has confirmed as complying with the rules in this chapter. The record must be retained for a year from the date at which the financial promotion was last communicated.

3A.9.2  G MCOB 2.8 (Record keeping) applies to the form in which records required in accordance with this chapter must be kept.

3B MCD general information

3B.1 Provision of general information

3B.1.1  R This chapter applies to a firm that is an MCD mortgage lender or a tied MCD mortgage credit intermediary.

3B.1.2  R A firm must make available clear and comprehensible information about MCD regulated mortgage contracts at all times on paper, or on another durable medium or in electronic form, that includes:

(1) the identity and the geographical address of the firm;

(2) the purposes for which the credit may be used;

(3) the forms of security, including, where applicable, the possibility for it to be located in a different EEA State;
(4) the possible duration of the MCD regulated mortgage contracts;

(5) the types of available borrowing rate, indicating whether fixed or variable or both, with a short description of the characteristics of a fixed and variable rate, including related implications for the consumer;

(6) where foreign currency loans are available, an indication of the foreign currency or currencies, including an explanation of the implications for the consumer where the credit is denominated in a foreign currency;

(7) a representative example of the total amount of credit, the total cost of the credit to the consumer, the total amount payable by the consumer and the APRC;

(8) an indication of possible further costs, not included in the total cost of the credit to the consumer, to be paid in connection with an MCD regulated mortgage contract;

(9) the different options available for repaying the credit to the MCD mortgage lender, including the number, frequency and amount of the regular repayment instalments;

(10) where applicable, a clear and concise statement that compliance with the terms and conditions of the MCD regulated mortgage contract does not ensure repayment of the total amount of credit;

(11) whether a valuation of the property is necessary and, where applicable, who is responsible for ensuring that the valuation is carried out, and whether any related costs arise for the consumer;

(12) an indication of ancillary services the consumer is obliged to acquire in order to obtain the credit or to obtain it on the terms and conditions marketed and, where applicable, a clarification that the ancillary services may be purchased from a provider that is not the MCD mortgage lender; and

(13) a general warning concerning possible consequences of non-compliance with the commitments linked to the MCD regulated mortgage contract.

[Note: article 13 of the MCD.]

3B.1.3 G (1) A firm may make the information in MCOB 3B.1.2R available by publishing it on a website.

(2) The MCD regulated mortgage contracts in MCOB 3B.1.2R are those offered or entered into by the firm.
4.4A Initial disclosure requirements

Description of a firm’s services in all cases

4.4A.1 R Using the methods and at the times specified in this section, a firm must provide the customer with the following information

(1) whether there are any limitations in the range of products that it will offer to the customer, and if so what those are; and

(2) the basis on which the firm will be remunerated; and

(3) the availability of alternative finance options.

...

4.4A.3A G In making its disclosure under MCOB 4.4A.1R(1), a firm should indicate, for each relevant market, whether this is across first charge legal mortgages, second charge regulated mortgage contracts or both.

4.4A.4 R (1) If a firm is not offering to the customer products from an unlimited range from across the relevant market, in its disclosure on product range in MCOB 4.4A.1R, the firm must either:

(a) where it is an MCD mortgage credit intermediary, list the names of all the mortgage lenders whose products it is offering; or

(b) where it is not an MCD mortgage credit intermediary, either

(i) comply with (a); or

(ii) inform the customer of the number of mortgage lenders whose products it is offering and that he has the right to request a list of those mortgage lenders.

(2) If a customer requests the list in (1)(b)(ii), the firm must provide it in a durable medium as soon as possible following the request and in any event within five business days. The list must also indicate whether the firm offers all of the products generally available from each mortgage lender on the list.

(3) An MCD mortgage credit intermediary must only disclose that it is independent if its consideration of MCD regulated mortgage contracts across the market is unlimited.
4.4A.7 G

(2) Firms are also reminded that Principle 7 (Communications with clients) and MCOB 2.2.6 R 3A.2.1 R (Clear, fair and not misleading communications) are also relevant to how they describe their services, including in any business name they adopt. For example, a firm should not call itself an "independent mortgage adviser" unless its product range across the relevant market is unlimited.

4.4A.8 R

(1) The information about the basis of remuneration required by MCOB 4.4A.1R(2) must include all relevant information, including the following details:

…

(c) whether the firm will receive commission from the mortgage lender or another third party and, if applicable, any arrangements for offsetting this whether any commission will be offset against any fees charged and the arrangements for doing so; and

[Note: article 15(3) of the MCD]

(d) for an MCD regulated mortgage contract, the amount of commissions or other inducements, or where the amount is not known at the time of disclosure, notification that the actual amount will be disclosed at a later stage in the ESIS.

[Note: article 15(1)(g) of the MCD]

(2) The details in (1)(a) must be expressed, where possible, as a specific cash sum, but the following rules apply where this is not possible:

…

(e) for an MCD regulated mortgage contract, if the firm will charge a fee calculated other than in line with 2(a) to (d), the firm must provide details of the method for calculating the fee.

[Note: article 15(1)(e) of the MCD]

Alternative finance options
4.4A.8A R Where a customer is looking to increase the borrowing secured on a property which is the subject of an existing regulated mortgage contract, the firm must first inform the customer, either orally or in writing, that the following alternative finance options may be available and more appropriate for the customer:

(1) a further advance from the existing lender, unless the firm knows that the existing lender will not make a further advance to the customer;

(2) (a) a second charge regulated mortgage contract, where the firm would offer services in relation to a new first charge regulated mortgage contract;

(b) a new first charge regulated mortgage contract, where the firm would offer services in relation to a second charge regulated mortgage contract; or

(3) unsecured lending.

4.4A.8B G Firms are not obliged to explore whether a further advance with the existing lender, a new first charge regulated mortgage contract with another lender, a second charge regulated mortgage contract or unsecured lending is more appropriate for the customer where that is not the service offered to the customer.

Method of providing initial disclosure in all cases

4.4A.9 R The information required by MCOB 4.4A.1R, MCOB 4.4A.2R, MCOB 4.4A.4R(1), and MCOB 4.4A.8R and MCOB 4.4A.8AR must be communicated clearly and prominently, and in doing so:

(1) if the initial contact includes spoken interaction, the information must be communicated orally; and an MCD mortgage lender or an MCD mortgage credit intermediary must provide the following information in a durable medium:

(a) for an MCD mortgage lender, the information in MCOB 4.4A.1R(1) and (2) and MCOB 4.4A.8R(1)(a) and (2)(e);

(b) for an MCD mortgage credit intermediary, the information in MCOB 4.4A.1R(1) and (2), MCOB 4.4A.4R(1)(a) and (3), and MCOB 4.4A.8R(1)(a),(c),(d) and (2); and

(2) if the initial contact does not include spoken interaction, the messages must appear separately from other messages in the communication, in all other cases:

(a) if the initial contact includes spoken interaction, the information must be communicated orally; and
(b) if the initial contact does not include spoken interaction, the messages must appear separately from other messages in the communication.

... 

4.4A.12 R The information required by MCOB 4.4A.1R, MCOB 4.4A.2R, MCOB 4.4A.4R(1), and MCOB 4.4A.8R and MCOB 4.4A.8AR must be provided during the course of the initial contact.

(1) in the case of information required by MCOB 4.4A.1R(1) and (2), MCOB 4.4A.4R(1)(a) and (3), and MCOB 4.4A.8R(1)(a),(c),(d) and (2), where the firm is an MCD credit intermediary, in good time before carrying out any MCD credit intermediation activity;

(2) in all other cases, during the course of the initial contact.

[Note: article 15(1) of the MCD]

... 

4.4A.14 G Principle 7 and MCOB 2.2.6R 3A.2.1R also mean that, if initial disclosure has been given but any of the information in it (for example the basis on which the firm will be remunerated) subsequently changes, the firm should bring this clearly to the customer's attention.

... 

Additional disclosure where the services are to be provided to a consumer under a distance contract

4.4A.18 R Where a firm provides services to a consumer by way of a distance contract, the firm must provide the consumer with the following information in a durable medium in good time before the distance contract has been agreed:

(1) the information which is required by MCOB 4.4A.1R to MCOB 4.4A.8R 4.4A.8AR;

... 

4.4A.20A G (1) An MCD mortgage lender or an MCD credit intermediary may comply with MCOB 4.4A.18R(3) and (5) to (9) by providing an ESIS to the consumer prior to the conclusion of the MCD regulated mortgage contract.
(2) Provided that the provisions of MCOB 4.4A on the methods and timing of disclosure are complied with, an MCD mortgage lender or an MCD credit intermediary may comply with MCOB 4.4A.18R(1), (2) and (4) by providing the necessary information in a separate document, which may be annexed to the ESIS (MCOB 5A.6.1R).

Uncertainty whether a mortgage is regulated

4.4A.21 R (1) If at the point that initial disclosure must be made in accordance with MCOB 4.4A.1R, MCOB 4.4A.2R, MCOB 4.4A.4R, and MCOB 4.4A.8R and MCOB 4.4A.8AR, a firm is uncertain whether the contract will be a regulated mortgage contract, the firm must:

…

4.7A Advised sales

…

4.7A.4A G Firms are only obliged to assess the suitability of a regulated mortgage contract or a shared equity credit agreement where this forms part of the transaction between the consumer and the firm

…

Shared equity

4.7A.14A R When a firm assesses whether a shared equity credit agreement is appropriate to the needs and circumstances of the customer for the purposes of MCOB 4.7A.5R(1) it must consider, in addition to the factors listed in MCOB 4.7A.6R, whether it is appropriate for the customer to:

(1) take out the shared equity credit agreement for a particular term, taking into account the customer’s intentions about the repayment of that shared equity credit agreement and the term of the customer’s associated first charge regulated mortgage contract;

(2) have flexibility over the payment of interest;

(3) have flexibility over the repayment of capital; and

(4) purchase a property by using his own resources, rather than by borrowing under the shared equity credit agreement.
Further advances

4.7A.17 R Where the customer is looking to increase the borrowing secured on the property which is the subject of an existing regulated mortgage contract, unless the firm knows that the existing lender will not make a further advance to the customer, the firm must inform the customer, either orally or in writing, that it may be possible, and more appropriate, to do so rather than to enter into a regulated mortgage contract with another lender. [deleted]

4.7A.18 G Firms are not under any obligation to explore whether a further advance with the existing lender is, in fact, more appropriate for the customer. [deleted]

Other considerations when advising

4.7A.21 G In complying with MCOB 4.7A.5R(1) a firm is not required to consider whether it would be preferable for the customer to:

(1) purchase a property by using his own resources, rather than by borrowing under a regulated mortgage contract (save for where the customer is seeking to enter into a shared equity credit agreement (see MCOB 4.7A.14AR(4)); or

4.8A Execution-only sales

Cases where execution-only sales are not permitted

4.8A.7 R A firm must not enter into or arrange an execution-only sale for a regulated mortgage contract if:

(3) there is spoken or other interactive dialogue between the firm and the customer at any point during the sale; or
(4) the regulated mortgage contract is a shared equity credit agreement.

....

Insert the following new chapter after MCOB 4. The text is not underlined.

4A Additional MCD advising and selling standards

4A.1 Additional disclosure by MCD mortgage credit intermediaries

4A.1.1 R An MCD mortgage arranger who is not also an MCD mortgage lender carrying out direct sales only must, in good time before carrying out any MCD mortgage credit intermediation activity, provide the consumer with at least the following information in a durable medium:

(1) the identity and the geographical address of the MCD mortgage credit intermediary;

(2) the Financial Services Register or other registers in which the MCD mortgage credit intermediary has been included, the registration numbers, where applicable, and the means for verifying such registrations;

(3) whether the MCD mortgage credit intermediary is an MCD mortgage adviser; and

(4) the procedures allowing consumers or other interested parties to complain to the MCD mortgage credit intermediary, whether complaints may subsequently be referred to the Financial Ombudsman Service and, if so, the methods of having access to it.

[Note: article 15(1)(a), (b), (d) and (f) of the MCD]

4A.1.2 G In MCOB 4A.1.1R(4):

(1) other interested parties includes all parties to the relevant MCD regulated mortgage contract and parties that have an interest in the MCD regulated mortgage contract, such as a guarantor of the obligations under the MCD regulated mortgage contract;

(2) where the MCD mortgage arranger provides the information in the general terms and conditions of the sales or service contracts, before carrying out any MCD mortgage credit intermediation activity, it need not provide it again.
4A.1.3 G The information listed in MCOB 4A.1.1R need not all be given at the same time or in the same disclosure.

4A.1.4 G In general, where other requirements for disclosure in a durable medium also apply, the MCD mortgage arranger may, if it would also satisfy those requirements, combine those other disclosures with the information required by MCOB 4A.1.1R, so long as the combined disclosure is provided to the consumer in good time before the MCD mortgage arranger carries out any MCD mortgage credit intermediation activity.

4A.1.5 R An MCD mortgage credit intermediary who is not a tied MCD mortgage credit intermediary and who is not also an MCD mortgage lender carrying out direct sales only, but who receives commission from one or more MCD mortgage lenders must, at the consumer’s request, provide information on the variation in levels of commission payable by the MCD mortgage lenders providing the MCD regulated mortgage contract being offered to the consumer. The consumer must be informed that they have the right to request such information.

[Note: article 15(2) of the MCD]

4A.1.6 R An MCD mortgage credit intermediary who is not also an MCD mortgage lender carrying out direct sales only must inform the MCD mortgage lender of any fee payable by the consumer to the MCD mortgage credit intermediary for its services, for the purpose of calculating the APRC.

[Note: article 15(4) of the MCD]

4A.1.7 R An MCD mortgage credit intermediary who is not also an MCD mortgage lender carrying out direct sales only must require their appointed representatives to disclose to the consumer the capacity in which the appointed representative is acting and the MCD mortgage credit intermediary that the appointed representative is representing when contacting or before dealing with any consumer.

[Note: article 15(5) of the MCD]

4A.2 Adequate explanations

4A.2.1 R (1) An MCD mortgage lender or MCD mortgage credit intermediary must provide, orally or in a durable medium, adequate explanations to the consumer of the proposed MCD regulated mortgage contract and any ancillary services, before any binding offer is issued to that consumer, to enable the consumer to assess whether the proposed MCD regulated mortgage contract and ancillary services meets their needs and financial situation.
(2) The explanations must, where applicable, include:

(a) the pre-contractual information to be provided in accordance with:

(i) the ESIS or illustration; and

(ii) in the case of an MCD mortgage credit intermediary, MCOB 4.4A.1R(1) and (2), MCOB 4.4A.4R, MCOB 4.4A.8R(1)(a), (c), (d) and (2), and MCOB 4A.1.1R to MCOB 4A.1.7R

(b) the essential characteristics of the products proposed;

(c) the specific effects the products proposed may have on the consumer, including the consequences of default in payment by the consumer; and

(d) where ancillary services are bundled with an MCD regulated mortgage contract, whether each component of the bundle can be terminated separately and the implications for the consumer of doing so.

[Note: article 16(1) of the MCD]

4A.2.2 R In complying with MCOB 4A.2.1R, a firm may adapt the manner and extent of giving the explanations, as well as the person giving them, according to:

(1) the circumstances of the situation in which the MCD regulated mortgage contract is offered;

(2) the consumer to whom it is offered; and

(3) the nature of the MCD regulated mortgage contract offered.

[Note: article 16(2) of the MCD]

4A.2.3 G The explanations given to a consumer for the purposes of complying with MCOB 4A.2.1R do not amount to advice to that consumer. Firms may wish to refer to PERG (particularly PERG 4.6) for guidance on the regulatory perimeter in relation to advising on a home finance transaction.

4A.3 Record of recommendation
4A.3.1 R An MCD mortgage adviser, or any other firm that is an MCD mortgage lender or an MCD mortgage arranger that provides advisory services within the meaning of article 4(21) of the MCD, must, for the particular transaction, explicitly inform the consumer whether advisory services are being, or can be, provided to the consumer.

[Note: article 22(1) of the MCD]

4A.3.2 R Where an MCD mortgage adviser, or any other firm that is an MCD mortgage lender or an MCD mortgage arranger that provides advisory services within the meaning of article 4(21) of the MCD, advises on a transaction relating to an MCD regulated mortgage contract, it must give the consumer a record on paper, or in another durable medium, of the recommendation provided.

[Note: article 22(3)(e) of the MCD]

4A.3.3 G The record in MCOB 4A.3.2R may consist of the completed ESIS or illustration.

Amend the following text as shown.

5 Pre-application disclosure

5.1 Application

Who?

5.1.1 R This Subject to MCOB 5.1.2AR, this chapter applies to a firm in a category listed in column (1) of the table in MCOB 5.1.2R in accordance with column (2) of that table.

...

5.1.2A R This chapter does not apply to a firm that is an MCD mortgage lender or MCD mortgage credit intermediary.

...

5.1.5 G This table belongs to MCOB 5.1.4G

<table>
<thead>
<tr>
<th>Type of mortgage</th>
<th>Requirements that do not apply</th>
<th>Additional or alternative requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shared appreciation</td>
<td>N/A</td>
<td>MCOB 5.6.129 R—MCOB</td>
</tr>
</tbody>
</table>
5.4 Information on regulated mortgage contracts: general

Clear, fair and not misleading

5.4.1 R A firm must be able to show that it has taken reasonable steps to ensure that any illustration it issues is clear, fair and not misleading. [deleted]

Accuracy

5.4.2 R An illustration on a particular regulated mortgage contract issued by, or on behalf of, a mortgage lender, must be an accurate reflection of the costs of the regulated mortgage contract. [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:

(1) is accurate within the following tolerances:

(a) no more than one percent or £1, whichever is the greater, below the actual figures charged by the mortgage lender for the following:

(i) the total amount payable in Section 5 of the illustration;

(ii) the amount payable for every £1 borrowed in Section 5 of the illustration;

(iii) the amounts that the customer must pay by regular instalment in Section 6 of the illustration (or in Section 7 of the illustration for an interest rate with a
floor or a ceiling); and

(iv) the amount by which the regular instalment (or the total amount payable for loans without a term or a regular repayment plan) would increase following a one percentage point increase in interest rates in Section 7;

(b) the APR in Section 5 of the illustration cannot be understated by more than 0.1%; and

(2) except in the case of conveyancing fees and insurance premiums (where estimates may be used), is accurate in respect of other figures quoted in the illustration including fees payable to the mortgage lender or mortgage intermediary in Section 8 of the illustration and cash examples of early repayment charges, calculated in accordance with the rules in MCOB 5.6.84 R to MCOB 5.6.88 R, in Section 10.

5.4.4 G Given that the APR is presented as a percentage, and must be rounded to one decimal place in accordance with MCOB 10 (Annual Percentage Rate), firms should note that the tolerance allowed for the APR in MCOB 5.4.3R(1)(b) means that, for example, where the actual APR is 5.0% the quoted APR must be no lower than 4.9%, or where the actual APR is 16.0%, the quoted APR must be no lower than 15.9%. [deleted]

5.4.5 G There are no restrictions on figures which are quoted as higher than those actually charged by the mortgage lender although this should not be purposely done in order to make one regulated mortgage contract look more expensive than another. [deleted]

5.4.6 G It is the responsibility of a mortgage intermediary to ensure compliance with MCOB 5.4.3R. 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 within the tolerances described in MCOB 5.4.3R, he accurate, it may be able to rely on MCOB 2.5.2R, if this turns out not to be the case.

5.4.7 G An offer document may not always exactly match the illustration provided before application even when the loan requirements have not changed. For example, where a fixed rate has a defined end date, the total amount payable may be different because the number of payments at the fixed rate has reduced assuming a later date at which the regulated mortgage contract will start. [deleted]

…

5.4.13A G When providing information on regulated mortgage contracts, firms should bear in mind that the information must be clear, fair and not misleading in accordance with Principle 7 and MCOB 2.2.6R, and must be given in accordance with MCOB 2.5A.1R (The customer's best
interests).

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 3 (Financial promotion) 3A (Financial promotions and communications with customers).

5.5 Provision of illustrations

5.5.1C R If, notwithstanding MCOB 5.5.1AR(1), a firm chooses to give an illustration in relation to a direct deal, it need not comply with MCOB 5.4.2R or MCOB 5.4.3R (Accuracy) remains subject to MCOB 3A.2.1R(2) (fair, clear and not misleading communications).

5.5.1D G In the circumstances in MCOB 5.5.1CR, a firm remains subject to MCOB 5.4.1R (Clear, fair and not misleading).

5.6 Content of illustrations

5.6.8 G In relation to MCOB 5.6.6R(3), in order for the firm to comply with the principle of ‘clear, fair, clear and not misleading’ in MCOB 2.2.6 3A.2.1R(1), an estimated valuation, where the estimated valuation is not that provided by the customer, must be a reasonable assessment based on all the facts available at the time. For example, an overstated valuation could enable a more attractive regulated mortgage contract to be illustrated on the basis of a lower ratio of the loan amount to the property value - for example, one with a lower rate of interest, or without a higher lending charge.

5.6.125 G For guidance on prominence see MCOB 2.2.9G. [deleted]
5.6.128 R The text at MCOB 5.6.124 R must be immediately followed by the following additional text, prominently displayed (see MCOB 2.2.9G): 'Changes in the exchange rate may increase the sterling equivalent of your debt.'

5.6.129 R [deleted]
5.6.130 G [deleted]

Risk warning
5.6.131 R [deleted]

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

5.7.2 R A business illustration or high net worth illustration provided to a customer must:

... (2) include the content required by MCOB 5.6.3R to MCOB 5.6.130G, 5.6.128R (except MCOB 5.6.5R, MCOB 5.6.101R, MCOB 5.6.109R to MCOB 5.6.112G, MCOB 5.6.120R and MCOB 5.6.121R)

5.7.3 G ...

(3) A firm may also choose to include other information beyond that required by MCOB 6. However, when adding additional material a firm should have regard to:

...
the requirement in MCOB 2.2.6 3A.2.1R that any communication should be clear, fair, clear and not misleading.

5 Annex The mortgage illustration: table of contents, prescribed text and prescribed section headings and subheadings

1. About this illustration

We are required by the Financial Conduct Authority (FCA) – the independent watchdog that regulates financial services – to provide you with this illustration.

All firms selling mortgages are required to give you illustrations like this one, that contain similar information presented in the same way.

Insert the following new chapter, MCOB 5A, after MCOB 5. The text in MCOB 5A is new and is not underlined.

5A MCD Pre-application disclosure

5A.1 Application and purpose

5A.1.1 R This chapter applies to a firm that is an MCD mortgage lender or MCD mortgage credit intermediary.

5A.1.2 G (1) MCOB 5A amplifies Principle 6 and Principle 7.

(2) The purpose of MCOB 5A is to ensure that, before a consumer submits an application for a particular MCD regulated mortgage contract, they are supplied with information that makes clear:

(a) its features, any linked deposits, any linked borrowing and any tied products; and

(b) the price that the consumer will be required to pay under that contract, to enable the consumer to make a well-informed purchasing decision.
(3) MCOB 5A requires information to be disclosed in a consistent way to facilitate comparison between products of different providers.

5A.2 Applying for an MCD regulated mortgage contract

5A.2.1 R An MCD mortgage lender must not enter into an MCD regulated mortgage contract, or agree to do so, with a consumer unless the consumer has submitted an application for that particular MCD regulated mortgage contract.

5A.2.2 G (1) The purpose of MCOB 5A.2.1R, along with other rules in this chapter, is to ensure that the consumer has received details of the particular MCD regulated mortgage contract for which they have applied, and has had the opportunity to satisfy themselves that it is appropriate for them.

(2) The application should identify the type of interest rate, rate of interest and the MCD mortgage lender at the point it is submitted by the consumer.

5A.3 Information on MCD regulated mortgage contracts: general

Accuracy

5A.3.1 R A firm that is an MCD mortgage credit intermediary must take reasonable steps to ensure that an ESIS which it issues, or which is issued on its behalf, other than that provided by an MCD mortgage lender is accurate.

5A.3.2 R It is the responsibility of the firm to ensure compliance with MCOB 5A.3.1R. However, where a firm can show that it was reasonable for it to rely on information provided by another person, other than the MCD mortgage lender, that an ESIS was accurate, it may be able to rely on MCOB 2.5.2R, if this turns out not to be the case.

ESISs where consumer is ineligible

5A.3.3 R A firm must not issue an ESIS to a consumer for an MCD regulated mortgage contract for which the consumer is clearly ineligible on the basis of the information that the firm has obtained from the consumer or the MCD mortgage lender's lending criteria.

5A.3.4 G The purpose of MCOB 5A.3.3R is not to require a firm to ascertain whether a consumer is eligible for a particular MCD regulated mortgage contract before providing an ESIS. Instead, the purpose is to ensure that the firm takes into account the information it has obtained from the consumer before providing an ESIS to the consumer.
Explaining the importance of an ESIS

5A.3.5 R In providing an ESIS to a consumer, a firm must explain to the consumer the importance of reading the ESIS and understanding it.

5A.3.6 G A firm may satisfy MCOB 5A.3.5R by drawing the consumer’s attention orally to the importance of reading and understanding the ESIS. 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 ESIS.

Form of an ESIS

5A.3.7 R Any ESIS provided to a consumer by a firm must be in a durable medium.

[Note: article 14(2) of the MCD]

Provision of information

5A.3.8 G When providing information on an MCD regulated mortgage contract, a firm should bear in mind that the information must be given in accordance with MCOB 2.5A.1R (The customer's best interests).

5A.3.9 G MCOB 5A places no restrictions on the provision of information that is not specific to the amount the consumer 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. However, such literature may constitute a financial promotion and be subject to MCOB 3A (Financial promotions and communications with customers).

Messages to be given with information on MCD regulated mortgage contracts

5A.3.10 R (1) Whenever a firm provides a consumer with information specific to the amount that the consumer wants to borrow on a particular MCD regulated mortgage contract, following an assessment of the consumer’s needs and circumstances to comply with MCOB 4.7A.2R, it must give, clearly and prominently, the following information:

(a) the same information on the firm's product range as is required by MCOB 4.4A.1R(1), MCOB 4.4A.2R and MCOB 4.4A.4R(1) (which require firms to provide information about limitations on the range of products they offer); and

(b) that the consumer has the right to request an ESIS for any MCD regulated mortgage contract which the firm is able to offer the consumer.

(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.

5A.3.11 G To demonstrate compliance with MCOB 5A.3.10R(1), a firm may wish to consider, for example, doing one or more of the following actions:

(1) giving the messages to the consumer in a durable medium;

(2) building the requirements into the firm's training of staff, as evidenced by its training and compliance manuals;

(3) insert appropriate prompts into paper-based or automated sales systems;

(4) having procedures to monitor compliance by its staff with that rule.

What is required in each case will depend on all the circumstances.

Messages to be given when consumer requests an execution-only sale

5A.3.12 R (1) Whenever, as part of an execution-only sale (or potential execution-only sale), a consumer provides a firm with the information in MCOB 4.8A.14R(1), (2) or (3), the firm must inform the consumer, clearly and prominently, that the consumer has the right to request an ESIS for any MCD regulated mortgage contract which the firm is able to offer the consumer.

(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.

Record keeping

5A.3.13 R A firm must make an adequate record of each ESIS that it issues to a consumer under MCOB 5A.4.1R where the consumer applies for that particular MCD regulated mortgage contract.

5A.3.14 R The record required by MCOB 5A.3.13R must be retained for one year from the date of the application made by the consumer.

5A.3.15 R MCOB 5A.3.13R does not require a firm to keep records of ESISs that are issued to a consumer when the consumer does not apply to enter into that particular MCD regulated mortgage contract.

5A.3.16 G The record maintained under MCOB 5A.3.13R should contain or refer to matters such as:

(1) the date on which the ESIS was provided to the consumer;

(2) the date of the application made by the consumer; and

(3) details of the medium through which the ESIS was provided.
5A.4 Provision of a European Standardised Information Sheet (ESIS)

Timing

5A.4.1 R (1) A firm must provide the consumer with an ESIS for an MCD regulated mortgage contract before the consumer submits an application for that MCD regulated mortgage contract to an MCD mortgage lender, unless an ESIS for that MCD regulated mortgage contract has already been provided.

(2) Except in the circumstances in MCOB 5A.4.2R, a firm must provide the consumer with an ESIS for an MCD regulated mortgage contract when any of the following occurs, unless an ESIS for that MCD regulated mortgage contract has already been provided:

(a) the firm advises the particular consumer to enter into that MCD regulated mortgage contract, then an ESIS must be provided at the point the advice is given, unless the advice is given by telephone, in which case the firm must provide an ESIS within five business days; or

(b) the consumer requests an ESIS for that MCD regulated mortgage contract, unless the firm is aware that it is unable to offer that regulated mortgage contract to them; or

(c) as part of an execution-only sale (or potential execution-only sale) the consumer has provided the firm with the information in MCOB 4.8A.14R(1) to MCOB 4.8A.14R(3) to indicate which MCD regulated mortgage contract they wish to enter into.

(3) Except in the circumstances in MCOB 5A.4.2R, and unless an ESIS for that MCD regulated mortgage contract has already been provided, a firm must provide the consumer with an ESIS for an MCD regulated mortgage contract:

(a) without undue delay after the consumer has given the necessary information on his needs, financial situation and preferences under MCOB 11.6.5R(2) (assessment of affordability) and MCOB 11.6.34R(2) (alternative provisions for loans with high net worth mortgage customers); and

(b) in good time before the consumer is bound by any MCD regulated mortgage contract or offer.

[Note: article 14(1) of the MCD]

5A.4.2 R A firm need not provide an ESIS:
(1) in relation to a direct deal;

(2) if the consumer refuses to disclose key information (for example, in a telephone conversation, his name or a communication address) or where the consumer is not interested in pursuing the enquiry; or

(3) if the firm does not wish to do business with the consumer.

5A.4.3 R If the firm chooses not to give an ESIS in the circumstances in MCOB 5A.4.2R(1), where it has given advice on a direct deal, the firm must give the consumer a written record of the advice.

5A.4.4 G In the circumstances in MCOB 5A.4.2R(2), the rule in MCOB 5A.4.1R(1) will mean that the consumer may not make an application for an MCD regulated mortgage contract, as an ESIS has not been provided.

5A.4.5 G The effect of MCOB 5A.2.1R and MCOB 5A.4.1R(1) is that, if a consumer’s application to enter into an MCD regulated mortgage contract with a MCD mortgage lender, made through an MCD credit intermediary, is subsequently passed by that firm to another MCD mortgage lender, then the firm must ensure that the application is amended and the consumer is provided with an ESIS for the other MCD mortgage lender’s MCD regulated mortgage contract before the application is passed to the other MCD mortgage lender.

5A.4.6 G If a firm chooses to issue an offer document in addition to an ESIS, it will need to comply with MCOB 6A.3.1R (MCD Mortgages: content of the offer document).

5A.4.7 R A firm must not undertake any action that commits the consumer to an application (including accepting product-related fees for the MCD regulated mortgage contract concerned) until the consumer has had the opportunity to consider an ESIS.

5A.4.8 G The effect of MCOB 5A.4.1R(1) and MCOB 5A.4.7R is that a consumer will be deemed to be committed to an application if, for example, they pay a product-related fee (including a valuation fee) or provides electronic or verbal authority to process an application. It is not necessary for a consumer to provide an MCD mortgage lender with a completed application form to submit an application for an MCD regulated mortgage contract.

5A.4.9 R The firm dealing directly with the consumer is responsible for ensuring compliance with the content and timing requirements, ie, an MCD mortgage lender is not responsible for ensuring that a consumer has received an ESIS before accepting an application from an MCD mortgage credit intermediary.

5A.4.10 R Where a firm has already provided an ESIS under MCOB 5A.4.1R and the terms for the proposed regulated mortgage contract are subsequently materially altered or different, the firm must ensure that the consumer is
provided with a revised ESIS, before acting on the amendment, when the change occurs at the point that a consumer submits an application for the MCD regulated mortgage contract.

5A.4.11 G What constitutes “materially altered” or “different” requires consideration of the facts of each individual case. For example, a change of product such that the underlying terms and conditions of the MCD regulated mortgage contract have changed should normally be regarded as material or different, as would an additional charge, such as a higher lending charge, applying to the MCD regulated mortgage contract when it did not previously.

Uncertainty whether a mortgage is regulated

5A.4.12 R (1) If, at the point an ESIS must be provided under MCOB 5A.4.1R, a firm is uncertain whether the contract will be an MCD regulated mortgage contract, the firm must:

(a) provide an ESIS; or

(b) seek to obtain from the consumer, information that will enable the firm to ascertain whether the contract will be an MCD regulated mortgage contract.

(2) Where (1)(b) applies, an ESIS must be provided, unless, on the basis of the information provided by the consumer, the firm has reasonable evidence that the contract is not an MCD regulated mortgage contract.

Providing an ESIS without delay in response to a customer request

5A.4.13 G Where the consumer requests an ESIS for a particular MCD regulated mortgage contract (see MCOB 5A.4.1R(2)(b)), the purpose of MCOB 5A.4.14R, MCOB 5A.4.15R and MCOB 5A.4.16G is to ensure that the consumer receives an ESIS without unnecessary delay. These requirements do not restrict the information that the firm may obtain from the consumer after it has provided the consumer with an ESIS.

5A.4.14 R In meeting a request for an ESIS under MCOB 5A.4.1R(2)(b), the firm must not delay the provision of the ESIS by requesting information other than:

(1) such information as is necessary to complete the ESIS in accordance with MCOB 5A.5.2R and MCOB 5A.5.3R, if the firm does not already know it;

(2) where the firm acts in accordance with MCOB 5A.4.12R(2), such information as is necessary to ascertain whether or not the contract will be an MCD regulated mortgage contract;

(3) where the interest rates, payments or any other terms and conditions to be included in the ESIS are dependent on the consumer's credit
record, such information as is necessary to produce an ESIS;

(4) where the firm includes a quotation for any tied products or compulsory insurance in the ESIS, such information as is necessary to produce those quotations;

(5) any of the following information where it affects the availability of the MCD regulated mortgage contract that the consumer has requested information on, or affects the information to be included in, the ESIS:

(a) whether the consumer is a first-time buyer, a subsequent buyer moving home or entering into an MCD regulated mortgage contract without moving home;

(b) whether the MCD regulated mortgage contract is required for a right-to-buy purchase or for a shared ownership purchase;

(c) the location of the property to be purchased, where known; and

(d) whether the terms are dependent on a third-party guarantee.

5A.4.15 R Where MCOB 5A.5.14R(3) applies:

(1) a firm must ask the consumer relevant questions about their credit history or obtain information on their credit record from a credit reference agency;

(2) a credit reference agency must not be used unless:

(a) it would be quicker than asking the consumer the relevant questions about their credit history; or

(b) the consumer is not able to provide sufficient information on their credit history.

5A.4.16 G A firm may use information that it already holds on the consumer for the purpose of producing the ESIS (for example, if it already holds the consumer's credit record), providing the use of this information does not delay the consumer receiving the ESIS and the consumer's consent is obtained, where appropriate.

5A.4.17 R If, on the basis of the information obtained from the consumer or, on the basis of information that the firm already holds on the consumer, the firm would do business with the consumer but not on the terms requested, the firm may provide the consumer with an ESIS for a different MCD regulated mortgage contract, if it chooses to do so.
5A.5 Content of European Standardised Information Sheets (ESISs)

Content, order, format etc

5A.5.1 G MCOb 5A.5 sets out the required content of an ESIS provided to a consumer by a firm.

5A.5.2 R An ESIS provided to a consumer must follow the form and contain the material in MCOb 5A Annex 1R.

5A.5.3 R A firm must:

(1) reproduce the text in MCOb 5A Annex 1R in the ESIS;

(2) replace the indications between square brackets with the corresponding information;

(3) complete the ESIS in accordance with MCOb 5A Annex 2R;

(4) wherever the words “where applicable” are indicated:

(a) provide the information required, if it is relevant to the MCD regulated mortgage contract; or

(b) where the information is not relevant to the MCD regulated mortgage contract, delete the information in question or the entire section (for example, in cases where the section is not applicable);

(5) if it deletes an entire section, adjust the numbering of the ESIS sections accordingly;

(6) provide the ESIS in a single document;

(7) ensure that the font used is clearly readable;

(8) use bold font, shading or larger font sizes for the information elements to be highlighted; and

(9) highlight all applicable risk warnings.

[Note: article 14(2) and Annex II, Part A, preamble of the MCD]

5A.5.4 G (1) The ESIS can contain the MCD mortgage lender’s or MCD mortgage credit intermediary's logo and other 'brand' information, so long as the requirements of MCOb 5A.5 are satisfied.

(2) The ESIS can contain page numbers and other references that aid understanding, record keeping and identification of a particular ESIS, such as the date and time it is produced or a unique reference number, provided these do not detract from the content of the ESIS.
(3) **Firms** are reminded of their general obligation for communications to **consumers** to be clear, fair and not misleading. Sections of the **ESIS** may be split across pages where it is impractical to do otherwise. When splitting sections, **firms** should split the section at an appropriate place, for example at the end of a sub-section, and not split tables or risk warnings.

Content: required information

5A.5.5 R The **ESIS** provided to **consumers** must:

(1) contain only the material prescribed in **MCOB 5A.5** and no other material; and

(2) be in a document separate from any other material that is provided to the **consumer**.

5A.5.6 G A **firm** should not illustrate more than one **MCD regulated mortgage contract** in the same **ESIS**, for example by using one **ESIS** to compare alternative products, repayment methods or repayment terms.

5A.5.7 G **Firms** are reminded that they must comply with **MCOB 7.6.5R** in respect of the release of loan instalments after the start of the **MCD regulated mortgage contract**.

5A.6 Other information

5A.6.1 R (1) A **firm** may provide information to the **consumer** in addition to that contained in the **ESIS**.

(2) A **firm** must provide the additional information in (1) in a separate document.

(3) A **firm** may annexe the separate document in (2) to the **ESIS**.

[Note: article 14(8) of the **MCD**]

5A.6.2 R (1) Where a **firm** issues an **ESIS** in relation to an **MCD lifetime mortgage**, the **firm** must simultaneously issue the **consumer** with a document in a **durable medium** containing the statements and warnings set out in the following rules, as modified by (2) below, as if the mortgage was an **MCD exempt lifetime mortgage**: **MCOB 9.4.33R**, **MCOB 9.4.35R**, **MCOB 9.4.62R**, and **MCOB 9.4.63R** only.

(2) The document issued under (1) must contain the prescribed section headings but need not contain section numbers or otherwise comply with the format of an **illustration**.

5A.6.3 G **Firms** are reminded of their general obligation for communications to
customers to be fair, clear and not misleading.

### MCOB 5A Annex 1 R

1. This annex belongs to *MCOB 5A.5.2R.*

<table>
<thead>
<tr>
<th>(Introductory text)</th>
</tr>
</thead>
<tbody>
<tr>
<td>This document was produced for [name of consumer] on [current date].</td>
</tr>
<tr>
<td>This document was produced on the basis of the information that you have provided so far and on the current financial market conditions.</td>
</tr>
<tr>
<td>The information below remains valid until [validity date], (where applicable) apart from the interest rate and other costs. After that date, it may change in line with market conditions.</td>
</tr>
<tr>
<td>(Where applicable) This document does not constitute an obligation for [name of creditor] to grant you a loan.</td>
</tr>
</tbody>
</table>

1. Lender

<table>
<thead>
<tr>
<th>[Name]</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Telephone number]</td>
</tr>
<tr>
<td>[Geographical address]</td>
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<td>(Optional) [Email address]</td>
</tr>
<tr>
<td>(Optional) [Fax number]</td>
</tr>
<tr>
<td>(Optional) [Web address]</td>
</tr>
<tr>
<td>(Optional) [Contact person/point]</td>
</tr>
</tbody>
</table>
(Where applicable, information as to whether advisory services are being provided:)

[(We recommend, having assessed your needs and circumstances, that you take out this mortgage. We are not recommending a particular mortgage for you. However, based on your answers to some questions, we are giving you information about this mortgage so that you can make your own choice.)]

2. (Where applicable) Credit intermediary

[Name]

[ Telephone number ]

[Geographical address]

(Optional) [ Email address ]

(Optional) [ Fax number ]

(Optional) [ Web address ]

(Optional) [ Contact person/point ]

(Where applicable [information as to whether advisory services are being provided]):

[(We recommend, having assessed your needs and circumstances, that you take out this mortgage. We are not recommending a particular mortgage for you. However, based on your answers to some questions, we are giving you information about this mortgage so that you can make your own choice.)]

[Remuneration]

3. Main features of the loan

Amount and currency of the loan to be granted: [value][currency]

(Where applicable) This loan is not in [national currency of the borrower].

(Where applicable) The value of your loan in [national currency of the borrower] could change.

(Where applicable) For example, if the value of [national currency of the borrower] fell by
20% relative to [credit currency], the value of your loan would increase to [insert amount in national currency of the borrower]. However, it could be more than this if the value of [national currency of the borrower] falls by more than 20%.

(Where applicable) The maximum value of your loan will be [insert amount in national currency of the borrower]. (Where applicable) You will receive a warning if the credit amount reaches [insert amount in national currency of the borrower]. (Where applicable) You will have the opportunity to [insert right to renegotiate foreign currency loan or right to convert loan into [relevant currency] and conditions].

Duration of the loan: [duration]

[Type of loan]

[Type of applicable interest rate]

Total amount to be reimbursed (repaid):

This means that you will pay back [amount] for every [unit of the currency] borrowed.

(Where applicable) [This/Part of this] is an interest-only loan. You will still owe [insert amount of loan on an interest-only basis] at the end of the mortgage term.

(Where applicable) Value of the property assumed to prepare this information sheet: [insert amount]

(Where applicable) Maximum available loan amount relative to the value of the property [insert ratio] or Minimum value of the property required to borrow the illustrated amount [insert amount]

(Where applicable) [Security]

4. Interest rate and other costs

The annual percentage rate of charge (APRC) is the total cost of the loan expressed as an annual percentage. The APRC is provided to help you to compare different offers.

The APRC applicable to your loan is [APRC].

It comprises:
Interest rate [value in percentage or, where applicable, indication of a reference rate and percentage value of creditor’s spread]

[Other components of the APRC]

Costs to be paid on a one-off basis

(Where applicable) You will need to pay a fee to register the mortgage. [Insert amount of fee where known or basis for calculation.]

Costs to be paid regularly

(Where applicable) This APRC is calculated using assumptions regarding the interest rate.

(Where applicable) Because [part of] your loan is a variable interest rate loan, the actual APRC could be different from this APRC if the interest rate for your loan changes. For example, if the interest rate rose to [scenario as described in Part B], the APRC could increase to [insert illustrative APRC corresponding to the scenario].

(Where applicable) Please note that this APRC is calculated on the basis that the interest rate remains at the level fixed for the initial period throughout the duration of the contract.

(Where applicable) The following costs are not known to the lender and are therefore not included in the APRC: [Costs]

(Where applicable) You will need to pay a fee to register the mortgage.

Please make sure that you are aware of all other taxes and costs associated with your loan.

5. Frequency and number of payments

Repayment frequency: [frequency]

Number of payments: [number]

6. Amount of each instalment

[Amount] [currency]

Your income may change. Please consider whether you will still be able to afford your
[frequency] repayment instalments if your income falls.

(Where applicable) Because [this/part of this] is an interest-only loan you will need to make separate arrangements to repay the [insert amount of loan on an interest-only basis] you will owe at the end of the mortgage term. Remember to add any extra payments you will need to make to the instalment amount shown here.

(Where applicable) The interest rate on [part of] this loan can change. This means the amount of your instalments could increase or decrease. For example, if the interest rate rose to [scenario as described in Part B], your payments could increase to [insert instalment amount corresponding to the scenario].

(Where applicable) The value of the amount you have to pay in [national currency of the borrower] each [frequency of instalment] could change. (Where applicable) Your payments could increase to [insert maximum amount in national currency of the borrower] each [insert period]. (Where applicable) For example, if the value of [national currency of the borrower] fell by 20% relative to [credit currency], you would have to pay an extra [insert amount in national currency of the borrower] each [insert period]. Your payments could increase by more than this.

(Where applicable) The exchange rate used for converting your repayment in [credit currency] to [national currency of the borrower] will be the rate published by [name of institution publishing exchange rate] on [date] or will be calculated on [date] using [insert name of benchmark or method of calculation].

(Where applicable) [Details on tied savings products, deferred-interest loans]

7. (Where applicable) Illustrative repayment table

This table shows the amount to be paid every [frequency].

The instalments (column [relevant no]) are the sum of interest to be paid (column [relevant no], where applicable, capital paid (column [relevant no]) and, where applicable, other costs (column [relevant no]). [Where applicable] The costs in the other costs column relate to [list of costs]. Outstanding capital (column [relevant no]) is the amount of the loan that remains to be reimbursed (repaid) after each instalment.

[Table]

8. Additional obligations

The borrower must comply with the following obligations in order to benefit from the lending conditions described in this document.

[Obligations]
(Where applicable) Please note that the lending conditions described in this document (including the interest rate) may change if these obligations are not complied with.

(Where applicable) Please note the possible consequences of terminating at a later stage any of the ancillary services relating to the loan:

[Consequences]

9. Early repayment

You have the possibility (the right to) to repay this loan early, either fully or partially.

(Where applicable) [Conditions]

(Where applicable) Exit charge (Early repayment charge): [insert amount or, where not possible, the method of calculation]

(Where applicable) Should you decide to repay this loan early, please contact us to ascertain the exact level of the exit charge (early repayment charge) at that moment.

10. Flexible features

(Where applicable) [Information on portability/subrogation] You have the possibility to (the right to) transfer this loan to another [lender][or] [property]. [Insert conditions]

(Where applicable) You do not have the possibility to (the right to) transfer this loan to another [lender] [or] [property].

(Where applicable) Additional features: [insert explanation of additional features listed in Part B and, optionally, any other features offered by the lender as part of the credit agreement not referred to in previous sections].

11. Other rights of the borrower

You have [length of reflection period] after [point in time when the reflection period begins] to reflect before committing yourself to taking out this loan.

12. Complaints

If you have a complaint, please contact [insert internal contact point and source of information on procedure].
(Where applicable) Maximum time for handling the complaint [period of time]

(Where applicable) [If we do not resolve the complaint to your satisfaction internally,] you can also contact: [insert name of external body for out-of-court complaints and redress]

(Where applicable) or you can contact FIN-NET for details of the equivalent body in your own country.

13. Non-compliance with the commitments linked to the loan: consequences for the borrower

[Types of non-compliance]

[Financial and/or legal consequences]

Should you encounter difficulties in making your [frequency] payments, please contact us straight away to explore possible solutions.

(Where applicable) As a last resort, your home may be repossessed if you do not keep up with payments.

(Where applicable) 14. Additional information

(Where applicable) [Indication of the law applicable to the credit contract].

(Where the lender intends to use a language different from the language of the ESIS) Information and contractual terms will be supplied in [language]. With your consent, we intend to communicate in [language/s] during the duration of the credit agreement.

[Insert statement on right to be provided with or offered, as applicable, a draft credit agreement]

15. Supervisor

This lender is supervised by [Name(s), and web address(es) of supervisory authority/ies]

(Where applicable) This credit intermediary is supervised by [Name and web address of supervisory authority].

5A Annex Instructions to complete the ESIS 2R
### 1.1 R This Annex belongs to MCOB 5A.5.3R(3).

### 1.2 R Where a MCD regulated mortgage contract is divided into more than one part, the firm must set out the required ESIS content in respect of each part.

### 1.3 R Unless otherwise specified, the sections referred to in this Annex are sections in the ESIS.

### 1.4 R Where the form includes the following words and phrases in round brackets:

1. “repaid” (in sections 3 and 7);
2. “right to” (in sections 9 and 10);
3. “early repayment charge” (in section 9);

the firm may use that word or phrase instead of the one immediately before it.

4. MCOB Annex 2, 5.7R(3), 9.1R(2), 11.2R(3) and 12.1R(2) explain this in more detail.

### 2 Section ‘Introductory text’

2.1 R (1) The firm must properly highlight the validity date.

(2) For the purpose of (1), the ‘validity date’ means the length of time the information, eg, the borrowing rate, contained in the ESIS will remain unchanged and will apply should the MCD mortgage lender grant the MCD regulated mortgage contract within this period of time.

(3) Where the determination of the applicable borrowing rate and other costs depends on the results of the selling of underlying bonds, the eventual borrowing rate and other costs may be different from those stated. In those circumstances only, the firm must stipulate that the validity date does not apply to the borrowing rate and other costs by adding the words: ‘apart from the interest rate and other costs’.

### 3 Section ‘1. Lender’

3.1 R (1) The firm must provide the name, telephone number and geographical address of the MCD mortgage lender.

(2) The information provided under (1) must be the contact information that the consumer may use for future correspondence.

3.2 G The firm need not provide the MCD mortgage lender’s email address, fax number, web address or contact person/point.
3.3 R Where the *MCD regulated mortgage contract* is offered at a distance, the *firm* must, where applicable, provide the name and geographical address of the *MCD mortgage lender’s* representative in the *EEA State* where the *consumer* is resident.

3.4 G The *firm* need not provide the telephone number, email address or web address of the *MCD mortgage lender’s* representative referred to at *MCOB 5A Annex 2, 3.3R.*

3.5 R Where section 2 does not apply, an *MCD mortgage lender* must inform the *consumer* whether advisory services are being provided and on what basis using the wording at the end of section 1 of *MCOB 5A Annex 1R.*

4 (Where applicable) Section ‘2. Credit intermediary’

4.1 R Where an *MCD mortgage credit intermediary* provides an *ESIS* to a *consumer*, the *MCD mortgage credit intermediary* must include the following information:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>(1)</td>
<td>the name, telephone number and geographical address of the <em>MCD mortgage credit intermediary</em>;</td>
</tr>
<tr>
<td>(2)</td>
<td>whether the <em>MCD mortgage credit intermediary</em> is providing advisory services and on what basis, using the wording at the end of section 2 of <em>MCOB 5A Annex 1R</em>; and</td>
</tr>
<tr>
<td>(3)</td>
<td>an explanation of how the <em>MCD mortgage credit intermediary</em> is being remunerated.</td>
</tr>
</tbody>
</table>

4.2 R The information provided under *MCOB 5A Annex 2, 4.1R(1)* must be the contact information that the *consumer* may use for future correspondence.

4.3 R The explanation provided under *MCOB 5A Annex 2, 4.1R(3)* must include:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>where the <em>MCD mortgage credit intermediary</em> receives commission from an <em>MCD mortgage lender</em>, the amount of that commission;</td>
</tr>
<tr>
<td>(2)</td>
<td>where the <em>MCD mortgage lender</em> from whom the <em>MCD mortgage credit intermediary</em> receives commission is different from the <em>MCD mortgage lender</em> referred to section 1, the name of that <em>MCD mortgage lender</em>; and</td>
</tr>
<tr>
<td>(3)</td>
<td>where the amount of remuneration is not known at the time when the <em>ESIS</em> is provided, a range of representative examples.</td>
</tr>
</tbody>
</table>

4.4 R The explanation provided under *MCOB 5A Annex 2, 4.1R(3)* must not include remuneration paid to a third party.

4.5 G An *MCD mortgage credit intermediary* need not provide its email address, fax number, web address or contact person/point.
4.6 G In the event that an *MCD mortgage lender* provides a *consumer* with a binding offer and the characteristics of the offer are different from the information in the *ESIS* previously provided by the *MCD mortgage credit intermediary*, if the *MCD mortgage credit intermediary* confirms to the *MCD mortgage lender* that the revised transaction can proceed, the *MCD mortgage lender* may complete section 2 and update the wording referred to at *MCOB 5A Annex 2, 4.1R(2)* to say “[Name of credit intermediary] recommends … / [Name of credit intermediary] is not recommending…” instead of “We recommend …/We are not recommending”.

<table>
<thead>
<tr>
<th>5</th>
<th>Section ‘3. Main features of the loan’</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.1 R</td>
<td>In section 3, the <em>firm</em> must clearly explain the main characteristics of the <em>MCD regulated mortgage contract</em>, including the value and currency and the potential risks associated with the <em>borrowing rate</em>, including the ones referred to in <em>MCOB 5A Annex 2, 5.7R</em>, and the amortisation structure.</td>
</tr>
<tr>
<td>5.2 R</td>
<td>Where the currency of the <em>MCD regulated mortgage contract</em> is different from the national currency of the <em>consumer</em>, the <em>firm</em> must:</td>
</tr>
<tr>
<td></td>
<td>(1) indicate that the <em>consumer</em> will receive a regular warning at least when the exchange rate fluctuates by more than 20%;</td>
</tr>
<tr>
<td></td>
<td>(2) where there is a provision in the <em>MCD regulated mortgage contract</em> to limit the exchange rate risk, indicate the maximum amount the <em>consumer</em> could have to pay back;</td>
</tr>
<tr>
<td></td>
<td>(3) where there is no provision in the <em>MCD regulated mortgage contract</em> to limit the exchange rate risk to which the <em>consumer</em> is exposed to a fluctuation in the exchange rate of less than 20 %, provide an <em>illustration</em> of the effect of a 20 % fall in the value of <em>consumer’s</em> national currency relative to the currency of the <em>MCD regulated mortgage contract</em> on the value of the <em>MCD regulated mortgage contract</em>;</td>
</tr>
<tr>
<td></td>
<td>(4) where applicable, indicate that the <em>consumer</em> has the right to convert the currency of the <em>MCD regulated mortgage contract</em>;</td>
</tr>
<tr>
<td></td>
<td>(5) where applicable, indicate to the <em>consumer</em> the right to renegotiate the conditions of the <em>MCD regulated mortgage contract</em>; and</td>
</tr>
<tr>
<td></td>
<td>(6) indicate any other arrangements available to the <em>consumer</em> to limit his exposure to exchange rate risk.</td>
</tr>
<tr>
<td>5.3 R</td>
<td>(1) The <em>firm</em> must express the duration of the <em>MCD regulated mortgage contract</em> in years and months (or a combination of the two), whichever is the most relevant.</td>
</tr>
<tr>
<td></td>
<td>(2) Where the duration of the <em>MCD regulated mortgage contract</em> can vary during the lifetime of the <em>MCD regulated mortgage contract</em>, the <em>firm</em>...</td>
</tr>
</tbody>
</table>
must explain when and under which conditions this can occur.

(3) Where the *MCD regulated mortgage contract* is open-ended, for example, for a secured credit card, the firm must clearly state that fact.

(4) Where the *MCD regulated mortgage contract* is an *MCD lifetime mortgage*, the duration of the mortgage must be estimated in accordance with *MCOB 9.4.10R*, as if the mortgage is an *MCD exempt lifetime mortgage*.

5.4 R (1) The firm must clearly indicate the type of *MCD regulated mortgage contract* (eg, mortgage credit, home loan, secured credit card).

(2) The description under (1) must clearly indicate how the capital and the interest shall be repaid during the life of the *MCD regulated mortgage contract* (ie, the amortisation structure), specifying clearly whether the *MCD regulated mortgage contract* is on a capital repayment or interest-only basis, or a mixture of the two.

5.5 R Where all or part of the *MCD regulated mortgage contract* is an interest-only *MCD regulated mortgage contract*, the firm must insert a statement, clearly indicating that fact, prominently at the end of section 3 using the wording in section 3 of *MCOB 5A Annex 1R*.

5.6 R (1) In section 3, the firm must explain whether the *borrowing rate* of the *MCD regulated mortgage contract* is fixed or variable and, where applicable, the periods during which it will remain fixed; the frequency of subsequent revisions and the existence of limits to the *borrowing rate* variability, such as caps or floors.

(2) The firm must explain the formula used to revise the *borrowing rate* and its different components (eg, reference rate, interest-rate spread).

(3) The firm must indicate (eg, by means of a web address) where further information on the indices or rates used in the formula referred to in (2) can be found (eg, Euribor or central bank reference rate).

(4) If different borrowing rates apply in different circumstances, the firm must provide the information required by (1), (2) and (3) on all applicable rates.

5.7 R (1) The "total amount to be repaid" corresponds to the *total amount payable by the consumer*. The firm must show this as the sum of the *credit amount* and the *total cost of the credit to the consumer*.

(2) Where the *borrowing rate* is not fixed for the duration of the *MCD regulated mortgage contract*, the firm must highlight that the amount in (1) is illustrative and may vary, in particular in relation with the variation in the *borrowing rate*.

(3) The firm may replace “reimbursed” with “repaid” (shown in round
brackets), ie, “Total amount to be repaid”.

### 5.8 R

| (1) | Where the credit will be secured by an **MCD regulated mortgage contract**, another comparable security or by a right related to land, the **firm** must draw the **consumer**’s attention to this. |
| (2) | Where applicable, the **firm** must indicate the assumed value of the land or other security used for the purpose of preparing the **ESIS**. |

### 5.9 G

In order for the **firm** to comply with the principle of 'fair, clear and not misleading' in **MCOB 3A.2.1R(1)**, where the assumed value is not a value provided by the **consumer**, the valuation must be a reasonable assessment based on all the facts available at the time. For example, an overstated valuation could enable a more attractive **MCD regulated mortgage contract** to be illustrated on the basis of a lower ratio of the loan amount to the property value - for example, one with a lower rate of interest or without a **higher lending charge**.

### 5.10 R

The **firm** must indicate, where applicable, either:

| (1) | The ‘maximum available loan amount relative to the value of the property’, indicating the loan-to-value ratio. This ratio must be accompanied by an example in absolute terms of the maximum amount that can be borrowed for a given property value; or |
| (2) | the ‘minimum value of the property required by the **firm** to lend the illustrated amount’. |

### 5.11 R

Where an **MCD regulated mortgage contract** has more than one part (eg, concurrently part fixed rate, part variable rate), the **firm** must indicate this and must provide the information required by section 3 for each part.

### 5.12 R

The amount of the loan to be granted is:

| (1) | in cases where, on the basis of the information obtained from the **consumer**, before providing the **ESIS** it is clear that the **consumer** would not be eligible to borrow the amount he requested, an estimate of the amount that the **consumer** could borrow based on the information obtained from the **consumer**. This does not require information to be obtained from the **consumer** before providing an **ESIS** to ascertain the amount the **consumer** is eligible to borrow, instead, this means that the **firm** does not have to provide a **consumer** with an **ESIS** for an amount it knows the **consumer** would not be eligible for, based on whatever information it has obtained from the **consumer** before providing the **ESIS**; or |
| (2) | where the **MCD regulated mortgage contract** is a revolving credit agreement, such as a secured overdraft or **mortgage credit card**, the total borrowing that the **firm** is willing to provide under the **MCD regulated mortgage contract**; or |
where it is known that the loan will be released in instalments, for example, in the case of a self-build mortgage:

(a) where the lender has made a binding offer for the full amount, the total amount of the loan required and not the amount of the initial instalment;

(b) where the lender has made a binding offer for an initial amount, the initial amount; and

(c) where the lender’s binding offer for an initial amount has been replaced by a binding offer for a larger amount, the larger amount.

6 Section ‘4. Interest rate’ and other costs

6.1 R The reference to ‘interest rate’ corresponds to the borrowing rate or borrowing rates.

6.2 R The firm must state the borrowing rate as a percentage value.

6.3 R (1) Where the borrowing rate is variable and based on a reference rate, the firm may indicate the borrowing rate by stating a reference rate and a percentage value of the MCD mortgage lender’s spread.

(2) The firm must state the value of the reference rate in (1) as at the day it issues the ESIS.

6.4 R Where the borrowing rate is variable, the firm must include:

(1) the assumptions used to calculate the APRC;

(2) where relevant, the applicable caps and floors; and

(3) a warning that the variability could affect the actual level of the APRC.

6.5 R In order to attract the consumer’s attention the firm must:

(1) use a font size for the warning required by MCOB 5A Annex 2, 6.4R(3) that is bigger than the font size it uses for the rest of the ESIS;

(2) ensure that warning required by MCOB 5A Annex 2, 6.4R(3) figures prominently in the main body of the ESIS.

6.6 R (1) The firm must accompany the warning required by MCOB 5A Annex 2, 6.4R(3) with an illustrative example of the APRC.

(2) Where there is a cap on the borrowing rate, the example required by (1) must assume that the borrowing rate rises at the earliest possible opportunity to the highest level foreseen in the MCD regulated
(3) Where there is no cap, the example required by (1) must illustrate the APRC at the highest borrowing rate in at least the last 20 years. Or, where the underlying data for the calculation of the borrowing rate is available for a period of less than 20 years, the longest period for which such data is available, based on the highest value of any external reference rate used in calculating the borrowing rate, where applicable, or the highest value of a benchmark rate specified by the FCA or another competent authority or the European Banking Authority where the MCD mortgage lender does not use an external reference rate.

(4) The requirement under (1) does not apply to an MCD regulated mortgage contract where the borrowing rate is fixed for a material initial period of several years and may then be fixed for a further period following negotiation between the MCD mortgage lender and the consumer.

(5) For an MCD regulated mortgage contract within (4), the firm must include a warning that the APRC is calculated on the basis of the borrowing rate for the initial period.

(6) The firm must accompany the warning required by (5) with by an additional, illustrative APRC calculated in accordance with MCOB 10A.1.4R.

6.7 R (1) Where the credit secured by an MCD regulated mortgage contract is a multi-part credit (eg, concurrently part fixed rate, part variable rate), the firm must provide the information about the borrowing rate required by MCOB 5A Annex 2, 6 for each part of the credit.

(2) Where the credit secured by an MCD regulated mortgage contract is a multi-part credit, the firm must calculate and provide the additional illustrative APRC required by MCOB 5A Annex 2, 6 once in respect of the entire MCD regulated mortgage contract.

6.8 R The FCA’s benchmark rate is the difference in percentage points between the Bank of England’s base rate on the date the ESIS is issued and the highest value of the Bank of England’s base rate over at least the last 20 years, added to the borrowing rate shown in the ESIS.

6.9 R When more than one interest rate applies during the term of the MCD regulated mortgage contract, for example, because there is an initial fixed or discounted interest rate period, the firm must calculate the FCA’s benchmark rate by reference to the reversionary borrowing rate shown in the ESIS.

6.10 G When calculating the FCA’s benchmark rate, the firm may:

(1) calculate the last 20 years from up to three months prior to the date the
ESIS is issued; and

extend the period for calculating the FCA’s benchmark rate beyond the last 20 years to any period longer than 20 years.

| 6.11 R | In the event of a scenario in column (1) in the table at MCOB 5A Annex 2, 6.12R, the firm must calculate the illustrative example of the APRC (the additional APRC) in accordance with column (2) of that table. |
| 6.12 R | This table belongs to MCOB 5A Annex 2, 6.11R |

<table>
<thead>
<tr>
<th>(1) Scenario</th>
<th>(2) Calculation of additional APRC</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>NB:</strong> A MCD mortgage lender’s standard variable rate is not to be used as an external reference rate (ERR)</td>
<td></td>
</tr>
<tr>
<td>Mortgage with an interest-rate cap</td>
<td>Calculate the APRC based on the <strong>borrowing rate rising at the earliest possible opportunity to the level of the cap.</strong></td>
</tr>
<tr>
<td>Where the product is not linked to an ERR</td>
<td>Use the FCA’s benchmark rate.</td>
</tr>
<tr>
<td><strong>MCD mortgage lender</strong> uses an ERR and has 20 years of data relating to the margin applied by the <strong>MCD mortgage lender</strong></td>
<td>Use the highest ERR in the previous 20 years, and apply the highest margin over that or lowest margin under it, to produce the highest additional APRC.</td>
</tr>
<tr>
<td><strong>MCD mortgage lender</strong> uses an ERR and has less than 20 years of data relating to the margin applied by the <strong>MCD mortgage lender</strong></td>
<td>Use the highest ERR in the previous 20 years, and apply the highest margin over that or lowest margin under it, used in the period of data available, to produce the highest additional APRC.</td>
</tr>
<tr>
<td><strong>MCD mortgage lender</strong> comprises a group which contains separate legal entities or comprises distinct product brands and has 20 years of data relating to the margin applied by that legal entity or product brand. It may have similar products across entities or brands within the same group or company with different margins above or below the ERR</td>
<td>Use the highest ERR in the previous 20 years with respect to the pricing approach for the specific legal entity or product brand and apply the highest margin over that or lowest margin under it to produce the highest additional APRC.</td>
</tr>
<tr>
<td>MCD mortgage lender comprises a group which contains separate legal entities or comprises distinct product brands and has less than 20 years of data relating to the margin applied by that legal entity or product brand. It may have similar products across entities or brands within the same group or company with different margins above or below the ERR.</td>
<td>Use the highest ERR in the previous 20 years with respect to the pricing approach for the specific legal entity or product brand and apply the highest margin over that or lowest margin under it used in the period of data available to produce the highest additional APRC.</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>MCD mortgage lender has previously purchased a brand that uses an ERR and has 20 years of data relating to the margin applied by the MCD mortgage lender for the same product</td>
<td>Where the purchaser is carrying on new lending under the purchased brand - same as above, using previous firm’s data where relevant and where it may be reasonably obtained.</td>
</tr>
<tr>
<td>MCD mortgage lender has previously purchased a brand that uses an ERR and has less than 20 years of data relating to the margin applied by the MCD mortgage lender for the same product</td>
<td>Where the purchaser is carrying on new lending under the purchased brand - same as above, using previous firm’s data, where relevant and where it may be reasonably obtained. Otherwise, use the FCA’s benchmark rate.</td>
</tr>
<tr>
<td>MCD mortgage lender has different ERR calculation methods that apply over time (eg, 0.5% over Bank of England rate for the first two years and then 2% over Bank of England rate for the rest of the mortgage lifetime).</td>
<td>Calculate using the method which produces the highest additional APRC.</td>
</tr>
<tr>
<td>MCD mortgage lender has different methods that apply to different proportions of the principal (eg, ERR + x% applies to 50% principal and SVR applies to the other 50%)</td>
<td>Calculate using the ERR where applicable and the FCA’s benchmark rate, where applicable, and use both to calculate the additional APRC.</td>
</tr>
<tr>
<td>MCD mortgage lender uses an ERR where its basis has</td>
<td>Consider whether there was an equivalent predecessor ERR and use the ERR (and its</td>
</tr>
</tbody>
</table>
changed in the past 20 years equivalent predecessor(s), if any) provided that it (or they) have existed at least 20 years, otherwise use the *FCA*’s benchmark rate.

**MCD mortgage lender** has an ERR calculation method that applies for a fixed period of time after which the lender’s standard variable rate applies (eg, 0.5% over Bank of England rate for the first two years and then the lender’s standard variable rate applies for the rest of the mortgage lifetime).

Calculate using the method which produces the highest additional *APRC*.

| 6.13 | R | (1) The **firm** must list all the costs other than the *borrowing rate* in the section on ‘other components of the *APRC*’, including one-off costs, such as administration fees, and regular costs, such as annual administration fees. |
|      |   | (2) the **firm** must list each of the costs referred to in (1) by the categories set out in in (3) and indicate for each cost: |
|      |   | (a) the amount; |
|      |   | (b) to whom the cost is to be paid; and |
|      |   | (c) when the cost is to be paid. |
|      |   | (3) The categories referred to in (1) are: |
|      |   | (a) costs to be paid on a one-off basis; |
|      |   | (b) costs to be paid regularly and included in the instalments; and |
|      |   | (c) costs to be paid regularly but not included in the instalments. |
|      |   | (4) Where the amount in (2)(a) is not known, the **firm** must provide an indication of the amount if possible or, if not possible, how the amount will be calculated and specify that the amount provided is indicative only. |
|      |   | (5) The **firm** must highlight where certain costs are not included in the *APRC* because they are unknown to the **firm**. |

**6.14** G The costs in *MCOB 5A Annex 2, 6.13R(1)* need not include costs incurred for breaches of contractual obligations.

**6.15** R Where a **consumer** has informed the **firm** of one or more components of his
preferred *MCD regulated mortgage contract*, such as the duration of the *MCD regulated mortgage contract* and the total amount of credit, the *firm* must, where possible, use those components.

| 6.16 R | If an *MCD regulated mortgage contract* provides for different ways of drawdown with different charges or borrowing rates and the *MCD mortgage lender* uses the assumptions set out in *MCOB 10A.3.1R*, the *firm* must indicate that other drawdown mechanisms for this type of *MCD mortgage lender* may result in a higher *APRC*. |
| 6.17 R | Where the *firm* uses the conditions for drawdown for calculating the *APRC*, the *firm* must highlight the charges associated with other drawdown mechanisms that are not necessarily the ones used in calculating the *APRC*. |
| 6.18 R (1) | Where a fee is payable for registration of the *MCD regulated mortgage contract* or comparable security, the *firm* must disclose that in section 3 with the amount, where known, or where this is not possible the basis for determining the amount. |
| 6.18 R (2) | Where the fees in (1) are known and included in the *APRC*, the *firm* must list the existence and amount of the fee under ‘Costs to be paid on a one-off basis’. |
| 6.18 R (3) | Where the fees in (1) are not known to the *firm* and, therefore, not included in the *APRC*, the *firm* must clearly indicate the existence of the fee in the list of costs which are not known to the lender. |
| 6.18 R (4) | The *firm* must use the standardised wording in section 4 of *MCOB 5A Annex 1R* under the appropriate heading. |

### Section ‘5. Frequency and number of payments’

| 7.1 R | Where a *consumer* will be required to make payments under an *MCD regulated mortgage contract* on a regular basis, the *firm* must indicate the frequency of those payments (eg, monthly). |
| 7.2 R | Where a *consumer* will be required to make payments under an *MCD regulated mortgage contract* on an irregular basis, the *firm* must clearly explain this to the *consumer*. |
| 7.3 R | The *firm* must indicate the number of payments under the *MCD regulated mortgage contract* that the *consumer* will be required to make over the entire duration of the *MCD regulated mortgage contract*. |

### Section ‘6. Amount of each instalment’

| 8.1 R | The *firm* must clearly indicate the currency of the *MCD regulated mortgage contract* and the currency and amount of the instalments. |
| 8.2 R | Where the amount of the instalments may change during the life of the *MCD regulated mortgage contract*, the *firm* must specify the period during...
which that initial instalment amount will remain unchanged and when and how frequently afterwards it will change.

8.3 R Where all or part of the *MCD regulated mortgage contract* is an interest-only *MCD regulated mortgage contract*, the *firm* must insert a statement clearly indicating that fact, prominently at the end of section 6 using the wording in section 6 of *MCOB 5A Annex 1R*.

8.4 R If there is a requirement for the *consumer* to take out a tied savings product as a condition for being granted an interest-only *MCD regulated mortgage contract*, the *firm* must provide the amount and frequency of any payments for this product.

8.5 R (1) Where the *borrowing rate* is variable, the *firm* must include a statement indicating that fact, using the wording in section 6 of *MCOB 5A Annex 1R* and an illustration of a maximum instalment amount.

(2) Where there is a cap, the illustration under (1) must show the amount of the instalments if the *borrowing rate* rises to the level of the cap.

(3) Where there is no cap, the illustration under (1) must illustrate the level of instalments at the highest *borrowing rate* in the last 20 years, or where the underlying data for the calculation of the *borrowing rate* is available for a period of less than 20 years, the longest period for which such data is available, based on:

(a) the highest value of any external reference rate used in calculating the *borrowing rate*, where applicable,

(b) or the highest value of a benchmark rate specified by:

(i) the *FCA* in *MCOB 5A Annex 2, 6.8R to 6.10G*;

(ii) another competent authority; or

(iii) the European Banking Authority

where the *MCD mortgage lender* does not use an external reference rate.

(4) The requirement under (1) does not apply to an *MCD regulated mortgage contract* where the *borrowing rate* is fixed for a material initial period of several years and may then be fixed for a further period following negotiation between the *MCD mortgage lender* and the *consumer*.

(5) Where the *credit* secured by an *MCD regulated mortgage contract* is a multi-part *credit* (eg, concurrently part fixed rate, part variable rate), the *firm* must provide the information about the *borrowing rate*
required by MCOB 5A Annex 2, 8 for each part of the credit and for the overall credit.

<p>| | | |</p>
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<tbody>
<tr>
<td>8.6</td>
<td>R</td>
<td>(1) Where the currency of the MCD regulated mortgage contract is different from the consumer’s national currency or where the MCD regulated mortgage contract is indexed to a currency which is different from the consumer’s national currency, the firm must include a numerical example clearly showing how changes to the relevant exchange rate may affect the amount of the instalments using the wording in section 6 of MCOB 5A Annex 1R.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(2) The firm must base the example under (1) on a 20 % reduction in the value of the consumer’s national currency.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(3) The firm must accompany the example under (1) with a prominent statement that the instalments could increase by more than the amount assumed in that example.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(4) Where there is a cap which limits the increase in (1) to less than 20 %, the firm must state the maximum value of the payments in the consumer’s currency instead and omit the statement in (3) on the possibility of further increases.</td>
</tr>
<tr>
<td>8.7</td>
<td>R</td>
<td>Where the MCD regulated mortgage contract is fully or partly a variable rate MCD regulated mortgage contract and MCOB 5A Annex 2, 8.3R applies, the firm must give the illustration under MCOB 5A Annex 2, 8.6R(1) on the basis of the instalment amount indicated under MCOB 5A Annex 2, 8.1R.</td>
</tr>
<tr>
<td>8.8</td>
<td>R</td>
<td>(1) Where the currency used for the payment of instalments is different from the currency of the MCD regulated mortgage contract or where the amount of each instalment expressed in the consumer’s national currency depends on the corresponding amount in a different currency, the firm must in section 6 indicate the date at which the applicable exchange rate is calculated and either the exchange rate or the basis on which it will be calculated and the frequency of their adjustment.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(2) Where applicable, the firm must include in its indication under (1) the name of the institution publishing the exchange rate.</td>
</tr>
<tr>
<td>8.9</td>
<td>R</td>
<td>Where the MCD regulated mortgage contract is a deferred-interest MCD regulated mortgage contract under which interest due is not fully repaid by the instalments and is added to the total amount of the MCD regulated mortgage contract outstanding, the firm must include an explanation of how and when deferred interest is added to the MCD regulated mortgage contract as a cash amount, and what the implications are for the consumer in terms of his remaining debt.</td>
</tr>
</tbody>
</table>

9 Section ‘7. Illustrative repayment table’
9.1 R (1) The firm must include section 7 where the MCD regulated mortgage contract is a deferred-interest MCD regulated mortgage contract under which interest due is not fully repaid by the instalments and is added to the total amount of MCD regulated mortgage contract outstanding, or where the borrowing rate is fixed for the duration of the MCD regulated mortgage contract.

(2) The firm may replace the word “reimbursed” with “repaid” (shown in round brackets), ie “…the amount of the loan that remains to be repaid after each instalment”.

9.2 R Where the consumer has the right to receive a revised amortisation table, the firm must indicate this along with the conditions under which the consumer has that right.

9.3 R The firm must include in section 7 an illustrative amortisation table including the following columns:

(1) ‘repayment schedule’ (eg, month 1, month 2, month 3);

(2) ‘amount of the instalment’;

(3) ‘interest to be paid per instalment’;

(4) ’other costs included in the instalment’ (where relevant);

(5) ‘capital repaid per instalment’; and

(6) ‘outstanding capital after each instalment’.

9.4 R The firm must:

(1) for the first repayment year, provide an illustrative amortisation table in accordance with MCOB 5A Annex 2, 9.3R for each instalment and include a subtotal for each of the columns at the end of that first year;

(2) for the following years, provide an illustrative amortisation table in accordance with MCOB 5A Annex 2, 9.3R on an annual basis;

(3) add an overall total at the end of the table and provide the total amounts for each column; and

(4) clearly highlight the total cost of the MCD regulated mortgage contract paid by the consumer (ie, the overall sum of the ‘amount of the instalment’ column) and present it as such.

9.5 G Where the borrowing rate is subject to revision and the amount of the instalment after each revision is unknown, the firm may indicate in the illustrative amortisation table required by MCOB 5A Annex 2, 9.3R the same instalment amount for the whole credit duration.
If the firm acts in accordance with MCOB 5A Annex 2, 9.5G, the firm must:

1. draw the fact that the borrowing rate is subject to revision and the amount of the instalment after each revision is unknown to the attention of the consumer by visually differentiating the amounts which are known from the hypothetical ones (eg, using a different font, borders or shading); and

2. in a clearly legible text explain for which periods the amounts represented in the table may vary and why.

### 10 Section ‘8. Additional obligations’

10.1 R (1) The firm must specify in section 8 any obligations imposed on the consumer in order to benefit from the MCD regulated mortgage contract, such as the obligation to insure the property, to purchase life insurance, to have a salary paid into an account with the MCD mortgage lender or to buy any other product or service.

(2) For each obligation specified under (1), the firm must specify:

   a. towards whom and by when the obligation needs to be fulfilled;

   b. the duration of the obligation, eg, until the end of the MCD regulated mortgage contract;

   c. any costs to be paid by the consumer which are not included in the APRC.

10.2 R (1) The firm must state whether it is compulsory for the consumer to purchase any ancillary services to obtain the MCD regulated mortgage contract on the stated terms and, if so, whether the consumer is obliged to purchase them from the MCD mortgage lender’s preferred supplier or whether they may be purchased from a provider chosen by the consumer.

(2) Where the possibility referred to in (1) is conditional on the ancillary services meeting certain minimum characteristics, the firm must describe those characteristics in section 8.

(3) Where applicable, the firm must state the possible consequences of terminating the ancillary services.

10.3 R Where the MCD regulated mortgage contract is bundled with other products the firm must clearly state:

(1) the key features of those other products; and

(2) whether the consumer has a right to terminate the MCD regulated mortgage contract or the bundled products separately and the
### Section ‘9. Early repayment’

#### 11.1 R
The **firm** must indicate under what conditions the **consumer** can repay the **MCD regulated mortgage contract** early, either fully or partially.

#### 11.2 R
(1) In the section on early repayment charges, the **firm** must draw the **consumer**’s attention to any early repayment charge or other costs payable on early repayment in order to compensate the **MCD mortgage lender** and, where possible, indicate their amount.

(2) In cases where the amount of compensation would depend on different factors, such as the amount repaid or the prevailing interest rate at the moment of the early repayment, the **firm** must indicate how the compensation will be calculated and provide the maximum amount that the charge might be, or where this is not possible, an illustrative example in order to demonstrate to the **consumer** the level of compensation under different possible scenarios.

(3) The **firm** may make the following changes to the wording in this section:

- (a) replace the word “possibility” with “right” (shown in round brackets) ie, “You have the right to repay this loan early, either fully or partially”;

- (b) replace the words “Exit charge” and “exit charge” with “Early repayment charge” or “early repayment charge” “ (shown in round brackets).

### Section ‘10. Flexible features’

#### 12.1 R
(1) Where applicable, the **firm** must explain the right to, and conditions for, transferring the **MCD regulated mortgage contract** to another **MCD mortgage lender** or property.

(2) The **firm** may replace “possibility to” with the “the right to” (shown in round brackets).

#### 12.2 R
Where the product contains any of the features listed in **MCOB 5A Annex 2, 12.6R**, the **firm** must list those features as additional features in section 10 and provide a brief explanation of:

(1) the circumstances in which the **consumer** can use the feature;

(2) any conditions attached to the feature;

(3) if the feature being part of the **credit** secured by an **MCD regulated mortgage contract** or comparable security means that the **consumer** loses any statutory or other protections usually associated with the
feature; and

(4) the *firm* providing the feature (if not the *MCD mortgage lender*).

<table>
<thead>
<tr>
<th>12.3 R</th>
<th>If the feature listed in accordance with <em>MCOB</em> 5A Annex 2, 12.2R contains any additional <em>credit</em>, then the <em>firm</em> must, in section 10, state:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>the total amount of credit (including the credit secured by the <em>MCD regulated mortgage contract</em> or comparable security);</td>
</tr>
<tr>
<td>(2)</td>
<td>whether the additional credit is secured or not;</td>
</tr>
<tr>
<td>(3)</td>
<td>the relevant <em>borrowing rates</em>; and</td>
</tr>
<tr>
<td>(4)</td>
<td>whether the additional credit is regulated or not.</td>
</tr>
</tbody>
</table>

| 12.4 R | The *firm* must either include any additional credit amount in the original creditworthiness assessment or, if it is not, the *firm* must, in section 10, make clear that the availability of the additional amount is dependent on a further assessment of the consumer’s ability to repay. |
| 12.5 R | If the feature listed in accordance with *MCOB* 5A Annex 2, 12.2R involves a savings vehicle, the *firm* must explain the relevant interest rate. |

<table>
<thead>
<tr>
<th>12.6 R</th>
<th>The possible additional features are:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>‘Overpayments/Underpayments’ (paying more or less than the instalment ordinarily required by the amortisation structure);</td>
</tr>
<tr>
<td>(2)</td>
<td>‘Payment holidays’ (periods where the consumer is not required to make payments);</td>
</tr>
<tr>
<td>(3)</td>
<td>‘Borrow back’ (ability for the consumer to borrow again funds already drawn down and repaid);</td>
</tr>
<tr>
<td>(4)</td>
<td>‘Additional borrowing available without further approval’;</td>
</tr>
<tr>
<td>(5)</td>
<td>‘Additional secured or unsecured borrowing’ (completed in accordance with <em>MCOB</em> 5A Annex 2, 12.3R);</td>
</tr>
<tr>
<td>(6)</td>
<td>‘Credit card’;</td>
</tr>
<tr>
<td>(7)</td>
<td>‘Linked current account’; and</td>
</tr>
<tr>
<td>(8)</td>
<td>‘Linked savings account’.</td>
</tr>
</tbody>
</table>

| 12.7 G | The *firm* may include any other features offered by the *MCD mortgage lender* as part of the *MCD regulated mortgage contract* not mentioned in previous sections. |

<p>| 13 | Section ‘11. Other rights of the borrower’ |</p>
<table>
<thead>
<tr>
<th>13.1</th>
<th>R</th>
<th>The <em>firm</em> must clearly specify the <em>consumer’s</em> reflection period.</th>
</tr>
</thead>
<tbody>
<tr>
<td>13.2</td>
<td>R</td>
<td>Where applicable, the <em>firm</em> must clearly state any other rights of the <em>consumer</em> (other than the reflection period), such as portability (including subrogation) that exist and for each right specify:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(1) the conditions to which that right is subject;</td>
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<tr>
<td></td>
<td></td>
<td>(2) the procedure that the <em>consumer</em> will need to follow in order to exercise that right, including payment of any fees;</td>
</tr>
<tr>
<td>13.3</td>
<td>R</td>
<td>Where the <em>firm</em> offers the <em>MCD regulated mortgage contract</em> at a distance, the <em>firm</em> must inform the <em>consumer</em> of the absence of a right of withdrawal.</td>
</tr>
<tr>
<td>14</td>
<td></td>
<td>Section ‘12. Complaints’</td>
</tr>
<tr>
<td>14.1</td>
<td>R</td>
<td>(1) The <em>firm</em> must, in section 12, indicate to whom within the <em>firm</em>, the <em>consumer</em> can make a complaint and provide:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(a) the name of the relevant department;</td>
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<tr>
<td></td>
<td></td>
<td>(b) contact details, such as a geographical address, telephone number or contact person (including in the case of the contact person, their contact details); and</td>
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<tr>
<td></td>
<td></td>
<td>(c) a link to the complaints procedure on the relevant page of the <em>firm</em>’s website or similar information source.</td>
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<tr>
<td></td>
<td></td>
<td>(2) The information required by (1) is in respect of the <em>firm</em> providing the <em>ESIS</em>.</td>
</tr>
<tr>
<td>14.2</td>
<td>R</td>
<td>The <em>firm</em> must, in section 12, indicate:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(1) the name of the <em>Financial Ombudsman Service</em>; and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(2) that using the <em>firm</em>’s internal complaint procedure is a precondition for access to the <em>Financial Ombudsman Service</em>, using the wording in section 12 of <em>MCOB 5A Annex 1R</em>.</td>
</tr>
<tr>
<td>14.3</td>
<td>R</td>
<td>In the case of an <em>MCD regulated mortgage contract</em> with a <em>consumer</em> who is resident in another <em>EEA State</em>, the <em>firm</em> must refer to the existence of FIN-NET (<a href="http://ec.europa.eu/internal_market/fin-net/">http://ec.europa.eu/internal_market/fin-net/</a>).</td>
</tr>
<tr>
<td>15</td>
<td></td>
<td>Section ‘13. Non-compliance with the commitments linked to the MCD regulated mortgage contract: consequences for the borrower’</td>
</tr>
<tr>
<td>15.1</td>
<td>R</td>
<td>(1) The <em>firm</em> must in section 13, describe the different main cases (eg, late payments/ default, failure to respect the obligations set out in Section 8 ‘Additional obligations’) where non-observance of any of the <em>consumer’s</em> obligations linked to the <em>MCD regulated mortgage contract</em> may have financial or legal consequences for the <em>consumer</em></td>
</tr>
</tbody>
</table>
and indicate where the **consumer** can obtain further information.

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<table>
<thead>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(2)</td>
<td>The description required by (1) must be a summary which can be read and understood on its own.</td>
</tr>
<tr>
<td>(3)</td>
<td>For each of the cases described under (1), the <em>firm</em> shall specify, in clear, easy comprehensible terms, the sanctions or consequences to which they may give rise and highlight any serious consequences.</td>
</tr>
</tbody>
</table>

15.2 **G** The disclosure required by *MCOB 5A* Annex 2, 15.1R(1) relates to “main cases”, rather than every case.

15.3 **G** The *firm* may provide the detail relating to the summary provided under *MCOB 5A* Annex 2, 15.1R(2) separately in the terms and conditions of the *MCD regulated mortgage contract*.

15.4 **R** Where the land used to secure the *MCD regulated mortgage contract* may be returned or transferred to the *MCD mortgage lender*, if the **consumer** does not comply with the obligations, the *firm* must, in section 13, include a statement indicating that fact, using the wording in section 13 of *MCOB 5A* Annex 1R.

16 Section ‘14. Additional information’

16.1 **R** If the *firm* is carrying on distance marketing, it must, in section 14 of *MCOB 5A* Annex 1R, state the law applicable to the *MCD regulated mortgage contract* or the competent court.

16.2 **R** Where the *MCD mortgage lender* intends to communicate with the **consumer** during the life of the *MCD regulated mortgage contract* in a language different from the language of the *ESIS*, the *firm* must include that fact and state the language that will be used.

16.3 **R** The *firm* must state the **consumer**’s right to be provided with a copy of the draft *MCD regulated mortgage contract* when the *MCD mortgage lender* provides the **consumer** with a binding offer.

17 Section ‘15. Supervisor’

17.1 **R** The *firm* must state the relevant authority or authorities for the supervision of the pre-contractual stage of the *MCD regulated mortgage contract*.

Amend the following text as shown.

**6 Disclosure at the offer stage**

**6.1 Application**
Who?

6.1.1 R This Subject to MCOB 6.1.2AR, this chapter applies to a firm in a category listed in column (1) of the table in MCOB 6.1.2R in accordance with column (2) of that table.

6.1.2 R …

6.1.2A R This chapter does not apply to a firm that is an MCD mortgage lender.

…

6.3 General

6.3.1 G MCOB 2.2.6R (Clear, fair and not misleading communication) applies to information provided to a customer by a firm in accordance with this chapter. [deleted]

…

Accuracy of the offer document

6.4.2 G MCOB 5.4.7G acknowledges that the offer document and illustration provided before an application may not always be the same, even where the customer's requirements have not changed. However, the FCA expects the offer document to be an accurate reflection of the actual costs of the regulated mortgage contract. [deleted]

…

Insert the following new chapter, MCOB 6A, after MCOB 6. The text in MCOB 6A is new and is not underlined.

6A MCD disclosure at the offer stage

6A.1 Application and purpose

6A.1.1 R This chapter applies to a firm that is an MCD mortgage lender.

6A.1.2 R This chapter applies to an offer made by a firm to a consumer with a view to the firm:

(1) entering into an MCD mortgage contract;

(2) varying the terms of an MCD mortgage contract entered into by the consumer in any of the following ways:
(a) adding or removing a party;
(b) making a further advance; or
(c) switching all or part of the *MCD regulated mortgage contract* from one interest rate to another;

(whether or not the *consumer* agrees to enter into the *MCD regulated mortgage contract* or variation).

(3) In *MCOB 6A*, a reference to varying an *MCD regulated mortgage contract* is to be read as including a reference to an offer to vary an existing *MCD regulated mortgage* in a manner specified in this section.

**6A.1.3**

**G**  *MCOB 6A* amplifies *Principle 6* and *Principle 7*. The purpose of *MCOB 6A* is to ensure that a *customer* receives a clear *offer document* to enable them to check the features and price of the *MCD regulated mortgage contract* before they enter into it.

**6A.2**

**General**

**6A.2.1**

**R**  Any *communication* required by *MCOB 6A* to be given to a *consumer* by a *firm* must be in a *durable medium*.

*[Note: article 14(3) of the MCD]*

**6A.3**

**MCD mortgages: binding offer, content of the offer document and reflection period**

**6A.3.1**

**R**  (1) If a *firm* offers to enter into an *MCD regulated mortgage contract* with a *consumer*, it must provide the *consumer* with a binding offer set out in an *offer document*.

(2) The *firm* may also provide an *ESIS*.

(3) The *firm’s* offer in the *offer document* must be on the basis of the information in the *ESIS* relevant to that offer.

(4) When an *MCD mortgage lender* provides the *consumer* with a binding offer, that offer must be accompanied by an *ESIS* where the characteristics of the offer are different from the information contained in the *ESIS* previously provided.

*[Note: article 14(3)(b) and (4) of the MCD]*

**6A.3.2**

**R**  (1) If a *firm* offers to vary an *MCD regulated mortgage contract* with a
consumer, it must provide the consumer with an offer document.

(2) The firm may also provide an ESIS.

(3) The firm's offer in the offer document must be on the basis of the information in the ESIS relevant to that offer.

(4) When an MCD mortgage lender offers to vary an MCD regulated mortgage contract with a consumer, the offer document must be accompanied by an ESIS where:

(a) the characteristics of the offer are different from the information contained in any illustration or ESIS previously provided in relation to the offer.

(b) no illustration or ESIS has been previously provided in relation to the offer.

6A.3.3 G (1) MCOB 6A.3.1R does not prevent a binding offer from being subject to lawful conditions, including conditions which make the binding offer subject to one or more of the matters listed below:

(a) there being no material change to the facts and circumstances relating to the binding offer which occurs after the date on which the binding offer is made;

(b) the fact that the consumer has not knowingly provided incomplete or inaccurate information for the purpose of the assessment of affordability, and has not knowingly falsified or withheld the information provided for the purpose of that assessment.

(2) The material changes referred to in (1)(a) include a material change:

(a) affecting the condition, value or title to the property;

(b) in the borrower’s circumstances (such as loss of employment or further secured borrowing taken out after the borrower’s application for an MCD regulated mortgage contract) which is likely to have a material impact upon the borrower’s ability to afford the loan.

(3) However, the lender cannot use conditions in binding offers as a means of avoiding the requirement to undertake a proper affordability assessment under MCOB 11 before the binding offer is made.

Reflection period

6A.3.4 R (1) Where an MCD mortgage lender provides the consumer with a binding offer, it must give the consumer a reflection period of at least
seven days.

(2) The MCD mortgage lender must ensure that, during the reflection period:

(a) the offer remains binding on the MCD mortgage lender;

(b) the consumer may accept the offer at any time.

[Note: article 14(6) of the MCD]

6A.3.5 G The purpose of the reflection period is to provide the consumer with sufficient time to compare offers, assess their implications and make an informed decision.

6A.3.6 R A firm must provide the consumer with a copy of the draft agreement for the MCD regulated mortgage contract at the beginning of the reflection period.

[Note: article 14(11) of the MCD]

Self-build mortgages and other tranched forms of lending

6A.3.7 G Where it is known that a loan will be released in instalments, for example in the case of a self-build mortgage, the loan can involve a binding offer, ESIS and the reflection period either for:

(1) the full amount; or

(2) an initial amount, which would be replaced by a binding offer, an ESIS and reflection period for a larger amount and so on.

Records

6A.3.8 R (1) A firm must make an adequate record of each offer document which it issues to a consumer under MCOB 6A.

(2) The record required by (1) must be retained for one year from the date that the offer document is issued to the consumer.

(3) If, in accordance with MCOB 6A.4 (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).

Information contained in the offer

6A.3.9 R A firm must ensure that the offer document contains a prominent statement explaining:

(1) the period for which the offer is valid;
(2) where the MCD regulated mortgage contract contains features, such as additional unsecured borrowing facilities, which could result in the consumer borrowing more money that, where such features are used, the amount of the consumer’s debt will increase;

(3) when any interest rate change on the MCD regulated mortgage contract takes effect. This statement must be used, for example, to explain cases where an annual review system is used;

(4) the consequences that might arise from the consumer not entering into the MCD regulated mortgage contract, including any fees that the consumer has paid which will not be reimbursed;

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

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

6A.3.10 G When setting the period for which the offer is valid (referred to in MCOB 6A.3.9R(1)), a firm should bear in mind the requirement under MCOB 6A.3.4R for a reflection period.

6A.3.11 R The offer document must state the repayment strategy the consumer intends to use.

6A.3.12 G The offer document may contain information about any retentions or re-inspections that will be required by the firm.

6A.3.14 R A firm must ensure that the offer document includes information on how to complain to the firm about the services provided by the firm in relation to the MCD regulated mortgage contract and whether or not complaints may subsequently be referred to the Financial Ombudsman Service.

6A.3.15 G DISP 1 requires a firm to deal promptly and fairly with complaints, including referring to another firm’s complaints about that other firm’s services.

6A.3.16 G In addition to the information required by MCOB 6A.3.9R, a firm may include information about how to complain to any other firm about the services that firm provided to the consumer in relation to the MCD regulated mortgage contract. For example, where the consumer received advice from another firm, an MCD mortgage lender may include contact details for the firm that provided the advice.

6A.3.17 R If the firm knows, at the point that the offer is made to the consumer, that its interest in the MCD 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.

6A.3.18 R Where MCOB 6A.3.17R 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 consumer of this as soon as it becomes known.

6A.3.19 G MCOB 6A.3.17R and MCOB 6A.3.18R could apply where the ownership of an MCD regulated mortgage contract is transferred to a third party through securitisation.

6A.4 MCD mortgages: information to be provided in the offer document or separately

Tariff of charges

6A.4.1 R If a firm makes an offer to a consumer with a view to entering into or varying an MCD regulated mortgage contract, it must provide the consumer, along with the offer document, with a tariff of charges that could be incurred on the regulated mortgage contract.

6A.4.2 R If the MCD regulated mortgage contract has any linked borrowing or linked deposits, details of the charges on these linked facilities (for example, charges payable on a linked current account) must be included in the firm's tariff of charges.

6A.4.3 G A firm may include the tariff of charges as an integral part of the offer document, or provide it separately along with the offer document.

Mortgage credit cards

6A.4.4 R If a firm makes an offer to a consumer with a view to entering into or varying an MCD regulated mortgage contract that includes a mortgage credit card, it must provide the customer with information explaining that the card will not give the customer the statutory rights associated with traditional credit cards.

6A.4.5 G A firm may include the information described in MCOB 6A.4.4R as an integral part of the offer document, or provide it separately along with the offer document.

6A.5 MCD distance contracts with retail customers

6A.5.1 R If a firm makes an offer to a consumer with a view to entering into or varying an MCD regulated mortgage contract which is a distance contract, it must provide the consumer with the following information with the offer document:
the EEA State or states whose laws are taken by the firm as a basis for the establishment of relations with the consumer prior to the conclusion of the MCD regulated mortgage contract;

(2) any contractual clause on law applicable to the MCD regulated mortgage contract or a competent court, or both;

(3) the language in which the contract is supplied and in which the firm will communicate during the course of the MCD regulated mortgage contract; and

(4) if not provided previously:

(a) all of the contractual terms and conditions of the MCD regulated mortgage contract to which the offer document relates; and

(b) (i) an appropriate status disclosure statement (compliant with GEN 4) for the MCD mortgage lender;

(ii) the MCD mortgage lender's firm reference number; and

(iii) confirmation that the customer can check the Financial Services Register on the FCA's website www.fca.org.uk/firms/systems-reporting/register or by contacting the FCA on 0800 111 6768.

Amend the following text as shown.

7 Disclosure at start of contract and after sale

7.1 Application

Who?

7.1.1 R This Subject to MCOB 7.1.2AR, this chapter applies to a firm in a category listed in column (1) of the table in MCOB 7.1.2R in accordance with column (2) of that table.

7.1.2 R ...

7.1.2A R MCOB 7.6.7R to MCOB 7.6.17R do not apply to a firm that is an MCD mortgage lender or MCD mortgage credit intermediary.

7.1.2B G MCOB 7B applies to a firm that is an MCD mortgage lender or MCD mortgage credit intermediary, instead of MCOB 7.6.7R to MCOB 7.6.17R.
7.3 General

7.3.1 \textit{G} \textit{MCOB 2.2.6 3A.2.1R} (Clear, fair, clear and not misleading communication) applies to information provided to a \textit{customer} by a \textit{firm} in accordance with this chapter.

7.6 Mortgages: event-driven information

Rate switches

7.6.18 \textit{R} Before a \textit{customer} submits an application to a \textit{firm} to change all or part of a \textit{regulated mortgage contract} from one interest rate to another (for example, a transfer from a variable rate \textit{regulated mortgage contract} to a fixed rate \textit{regulated mortgage contract}, or from one fixed rate \textit{regulated mortgage contract} to another fixed rate \textit{regulated mortgage contract}), the \textit{firm} must provide the \textit{customer} with either:

(1) an \textit{illustration} for the whole loan that complies with the requirements of \textit{MCOB 5} (Pre-application disclosure); or

(2) an \textit{ESIS} for the whole loan that complies with the requirements of \textit{MCOB 5A} (MCD Pre-application disclosure),

unless such an \textit{illustration} or \textit{ESIS} has already been provided.

7.6.19 \textit{G} If a number of different \textit{firms} are involved in relation to the transaction referred to in \textit{MCOB 7.6.18R}, having regard to \textit{MCOB 2.5.4R}(2), those \textit{firms} should take reasonable steps to establish which one of them is responsible for providing the \textit{customer} with the \textit{illustration} or \textit{ESIS} required by \textit{MCOB 7.6.18R}.

7.6.20 \textit{R} (1) The \textit{illustration} provided in accordance with \textit{MCOB 7.6.18R}(1) may diverge from the requirements of \textit{MCOB 5} where it is necessary to do so in order to reflect the fact that the \textit{illustration} is being provided for a rate switch.

(2) The \textit{ESIS} provided under \textit{MCOB 7.6.18R}(2) may diverge from the requirements of \textit{MCOB 5A} where it is necessary to do so to reflect that the \textit{ESIS} is being provided for a rate switch.

7.6.21 \textit{G} \textit{MCOB 7.6.20R(1) and (2) allow a firm} to make changes to wording and to add, remove or alter information that would otherwise be
misleading to the customer. For example, a firm could replace the statement in Section 3 of the illustration, explaining that if information provided by the customer changes, the illustration may be affected, with a statement explaining that the illustration is based on information gathered in the past, which may no longer be accurate.

Addition or removal of a party to the contract

7.6.22 R Before a customer submits an application to add or remove a party to a regulated mortgage contract, a firm must provide any customer who will remain or become a party to the contract with either:

(1) an illustration for the whole loan that complies with the requirements of MCOB 5 (Pre-application disclosure); or

(2) an ESIS for the whole loan which complies with the requirements of MCOB 5A (MCD Pre-application disclosure).

... 

7.6.24 G If a number of different firms are involved in relation to the transaction referred to in MCOB 7.6.22R, having regard to MCOB 2.5.4R(2), those firms should take reasonable steps to establish which one of them is responsible for providing the customer with the illustration or ESIS required by MCOB 7.6.22R.

7.6.25 R (1) The illustration provided in accordance with MCOB 7.6.22R(1) may diverge from the requirements of MCOB 5 (Pre-application disclosure) where it is necessary to do so in order to reflect the fact that the illustration is being provided in respect of the addition or removal of a party to the contract.

(2) The ESIS provided under MCOB 7.6.22R(2) may diverge from the requirements of MCOB 5A (MCD Pre-application disclosure) where it is necessary to do so to reflect that the ESIS is being provided for the addition or removal of a party to the contract.

7.6.26 G MCOB 7.6.25R(1) and (2) allows the firm to make changes to wording and to add, remove or alter information that would otherwise be misleading to the customer. For example, a firm may choose not to include a property valuation in the 'What you have told us' section of the illustration if the property value does not have a bearing on the terms of the regulated mortgage contract.

... 

Use of illustrations or ESISs in place of information under MCOB 7.6.28R

7.6.31 R Where MCOB 7.6.28R applies, a firm may issue either:

(1) an illustration in accordance with MCOB 5 (Pre-application
disclosure); or

(2) an ESIS in accordance with MCOB 5A (MCD Pre-application disclosure),

in place of the information set out in MCOB 7.6.28R.

7.6.31A R (1) The illustration provided under MCOB 7.6.31R(1) may diverge from the requirements of MCOB 5 (Pre-application disclosure) where it is necessary to do so to reflect the circumstances in which it is being provided.

(2) The ESIS provided under MCOB 7.6.31R(2) may diverge from the requirements of MCOB 5A (MCD Pre-application disclosure) where it is necessary to do so to reflect the circumstances in which it is being provided.

7.6.31B G MCOB 7.6.31AR(1) and (2) allow the firm to make changes to wording and to add, remove or alter information that would otherwise be misleading to the customer.

7.6.32 R Where MCOB 7.6.28R applies and the customer simultaneously requests a rate switch or the addition or removal of a party to the contract, a firm will not be required to provide the information in accordance with MCOB 7.6.28R where it is provided as part of:

(1) an illustration issued in accordance with MCOB 7.6.18R(1) or MCOB 7.6.22R(1); or

(2) an ESIS issued under MCOB 7.6.18R(2) or MCOB 7.6.22R(2).

Simultaneous request for a rate switch and addition or removal of a party to a contract

7.6.33 G (1) Where a customer simultaneously requests a rate switch and the addition or removal of a party to the loan, a firm will not be required to provide the customer with a separate illustration for each in accordance with MCOB 7.6.18 R(1) and MCOB 7.6.22R(1). The firm may provide the customer with a single illustration that complies with the requirements of MCOB 5 (Pre-application disclosure) for both.

(2) Where a customer simultaneously requests a rate switch and the addition or removal of a party to the loan, a firm will not be required to provide the customer with a separate ESIS for each under MCOB 7.6.18R(2) and MCOB 7.6.22R(2). The firm may provide the customer with a single ESIS that complies with the requirements of MCOB 5A (MCD Pre-application disclosure) for both.

European Standardised Information Sheet (ESIS): additional APRC
7.6.34 R Where a firm is required to provide a customer with an ESIS under MCOB 7.6.18R(2) or MCOB 7.6.22R(2), or a firm chooses to provide a customer with an ESIS under MCOB 7.6.31R(2), the firm need not include the additional APRC required under MCOB 10A.1.6R, Section 4 of MCOB 5A Annex 1R and MCOB 5A Annex 2, 6.2R to 6.8R.

7.6.35 R Where a firm provides a customer with an ESIS under MCOB 7.6.18R(2), MCOB 7.6.22R(2) or MCOB 7.6.31R(2), that includes an additional APRC, the firm must either:

1. base that additional APRC on the APRC previously provided to the customer under MCOB 5A (MCD Pre-application disclosure); or

2. calculate that additional APRC in accordance with MCOB 10A.1.6R, Section 4 of MCOB 5A Annex 1R and MCOB 5A Annex 2, 6.2R to 6.12R.

7.6.36 G When considering whether to apply MCOB 7.6.35R(1) or MCOB 7.6.35R(2), a firm should consider its obligations under MCOB 3A.2.1R(2) to communicate in a way that is fair, clear and not misleading.

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

Further advances

7.7.1 R (1) Where, in relation to a regulated mortgage contract for a business purpose or a high net worth mortgage customer who is not a consumer under an MCD regulated mortgage contract, a customer either:

...

...

7.7.3 R Where a customer applies for a further advance that is a regulated mortgage contract for a business purpose or a high net worth mortgage customer who is not a consumer under an MCD regulated mortgage contract and MCOB 7.7.1R does not apply:

...

Insert the following new chapters, MCOB 7A and MCOB 7B, after MCOB 7. The text is new and is not underlined.
7A Additional MCD disclosure: start of contract and after sale

7A.1 Application and general

7A.1.1 R This chapter applies to a firm that is an MCD mortgage lender or an MCD mortgage administrator.

7A.1.2 R A firm must provide the information required by this chapter in a durable medium.

7A.2 Notification of interest-rate changes

7A2.1 R When giving notice to a consumer of any changes that the consumer is required to make resulting from interest-rate changes for an MCD regulated mortgage contract, a firm must:

(1) give notice of the amount of the payments to be made after the new interest-rate change takes effect; and

(2) where the number or frequency of the payments will change, give particulars of these changes.

[Note: article 27(1) of the MCD]

7A.3 Early repayment disclosure

7A.3.1 R (1) If a consumer notifies a firm that they wish to discharge their obligations under an MCD regulated mortgage contract prior to its expiry, the firm must provide the consumer, without delay, with the information necessary to allow them to consider that option.

(2) The information under (1) must:

(a) quantify the implications for the consumer of discharging their obligations prior to the expiry of the MCD regulated mortgage contract; and

(b) clearly set out any assumptions that have been used.

(3) The assumptions under (2)(b) must be reasonable and justifiable.

[Note: article 25(4) of the MCD]

7A.4 Foreign currency loans and significant exchange-rate movement disclosure

7A.4.1 R (1) A firm must warn any consumer with a foreign currency loan, on a
regular basis, where the value of either:

(a) the total amount payable by the consumer which remains outstanding; or

(b) the regular instalments;

varies by more than 20% from what it would be if the exchange rate between the currency of the MCD regulated mortgage contract and the currency of the EEA State, applicable at the time of the conclusion of the MCD regulated mortgage contract, were applied.

(2) The warning in (1) must inform the consumer of a rise in the total amount payable by the consumer, setting out the right to convert to an alternative currency, where applicable, and the conditions for doing so. It must also explain any other applicable mechanisms for limiting the exchange-rate risk to which the consumer is exposed.

[Note: article 23(4) of the MCD]

7A.4.2 R A firm must disclose to the consumer its arrangements for complying with the obligations in MCOB 7A.4.1R in the MCD regulated mortgage contract.

[Note: article 23(6) of the MCD]

7A.5 Notification of changes resulting from auctions on the capital market

7A.5.1 R In relation to an MCD regulated mortgage contract, where there is an auction on the capital markets which will, or might reasonably be expected to, result in an interest-rate change, the firm must give the consumer, in good time before the auction, notice in a durable medium of:

(1) the upcoming procedure for the auction; and

(2) an indication of how the interest rates could be affected.

[Note: article 27(4) of the MCD]

7B MCD: further advances

7B.1 Information to be provided for further advances

7B.1.1 R This chapter applies to a firm that is an MCD mortgage lender or an MCD mortgage credit intermediary.

7B.1.2 R Before a consumer submits an application to a firm for a further advance on an existing or new MCD regulated mortgage contract or for a further
advance that is a new *MCD regulated mortgage contract*, if the further advance requires the approval of the *MCD mortgage lender*, the *firm* must provide the *consumer* with an *ESIS* that complies with *MCOB 5A* (MCD pre-application disclosure) and *MCOB 7B.1.4R* for the further advance, unless an *ESIS* has already been provided.

7B.1.3  G If a number of different *firms* are involved in relation to the transaction in *MCOB 7B.1.2R*, having regard to *MCOB 2.5.4R(2)*, those *firms* should take reasonable steps to establish which one of them is responsible for providing the *consumer* with the *ESIS* required by *MCOB 7B.1.2R*.

7B.1.4  R The *ESIS* provided under *MCOB 7B.1.2R* must be based on the amount of the further advance only.

7B.1.5  G To comply with *MCOB 7B.1.4R*, a *firm* should calculate the *APRC* on the basis of the further advance amount only.

Amend the following text as shown.

**8.1**  [Equity release: advising and selling standard](#)

...  

8.1.6  G *Firms* are reminded that *MCD lifetime mortgages* are also subject to the advising and selling standards in *MCOB 4.4A* and *MCOB 4A* that apply to *MCD regulated mortgage contracts*.

**9**  [Equity release: product disclosure](#)

**9.1**  Application

...  

MCD application

9.1.7  G (1) This chapter does not apply to an *MCD lifetime mortgage*, except as set out in (2) to (3), below.

(2) *MCOB 9.4.33R, MCOB 9.4.35R, MCOB 9.4.62R and MCOB 9.4.63R* apply to the extent specified by *MCOB 5A.6.2R*.

(3) *MCOB 9.6 to MCOB 9.8* apply, except for rules that modify or replace *MCOB 7.6.7R to MCOB 7.6.17R* (because those rules do not apply to an *MCD mortgage lender* or an *MCD mortgage credit intermediary*, *MCOB 7B* applies instead: see *MCOB 7.1.2AR and MCOB 7.1.2BG*).
9.4 Content of illustrations

... 

9.4.34 G For guidance on prominence see MCOB 2.2.9G. [deleted]

... 

9.4.61 G For guidance on prominence see MCOB 2.2.9G. [deleted]

... 

9.4.129 R The text at MCOB 9.4.33R(8) must be immediately followed by the following additional text, prominently displayed (for guidance on prominence see MCOB 2.2.9G): "Changes in the exchange rate may increase the sterling equivalent of your debt."

... 

9.4.132 R The requirements at MCOB 9.4.130R(1) must be immediately followed by the following additional text, prominently displayed (see MCOB 2.2.9G): "You will need to pay this share in the value of your home to [name of mortgage lender] [insert time at which share must be paid - for example 'when your lifetime mortgage is repaid']. Think carefully about how this will affect the amount left over for you or your estate."

... 

9.4.146 G For guidance on prominence see MCOB 2.2.9G. [deleted]

...

Insert the following new chapter, MCOB 10A, after MCOB 10. The text is new and is not underlined.

10A MCD Annual Percentage Rate of Charge

10A.1 Calculation of the APRC

10A.1.1 R The APRC must be calculated for an MCD regulated mortgage contract in accordance with the mathematical formula in MCOB 10A.2.2R.

[Note: article 17(1) of the MCD]
10A.1.2 R Whenever the opening or maintaining of an account is obligatory to obtain the credit, or to obtain it on the terms and conditions marketed, the total cost of credit to the consumer must include the following costs:

(1) opening and maintaining a specific account;
(2) using a means of payment for both transactions and drawdowns on that account;
(3) other costs relating to payment transactions;

[Note: article 17(2) of the MCD]

10A.1.3 R The calculation of the APRC must be based on the assumption that the MCD regulated mortgage contract is to remain valid for the period agreed and that the MCD mortgage lender and the consumer will fulfil their obligations under the terms and by the dates specified in the MCD regulated mortgage contract.

[Note: article 17(3) of the MCD]

10A.1.4 R If an MCD regulated mortgage contract allows variations in the:

(1) borrowing rate; or
(2) charges contained in the APRC;

and they are unquantifiable at the time the APRC is calculated, the APRC must be calculated on the assumption that the borrowing rate and other charges will remain fixed in relation to the level set when the contract is entered into.

[Note: article 17(4) of the MCD]

10A.1.5 R If an MCD regulated mortgage contract contains a fixed borrowing rate in relation to the initial period of at least five years, at the end of which a negotiation on the borrowing rate must take place to agree on a new fixed rate for a further material period, the calculation of the additional, illustrative APRC disclosed in the ESIS must:

(1) cover only the initial fixed-rate period; and
(2) be based on the assumption that, at the end of the fixed borrowing rate period, the capital outstanding is repaid.

[Note: article 17(5) of the MCD]

10A.1.6 R If an MCD regulated mortgage contract:

(1) allows for variations in the borrowing rate; and
(2) it does not fall within MCOB 10A.1.5R,
the ESIS must contain an additional APRC which illustrates the possible risks linked to a significant increase in the borrowing rate. Where the borrowing rate is not capped, this information must be accompanied by a warning highlighting that the total cost of the credit to the consumer, shown by the APRC, may change.

[Note: article 17(6) of the MCD]

10A.1.7 R The assumptions in MCOB 10A.2 and, where applicable, in MCOB 10A.3 must be used and applied in calculating the APRC.

[Note: article 17(7) of the MCD]

10A.2 APRC: mathematical formula and assumptions

10A.2.1 G The mathematical formula for calculating the APRC in MCOB 10A.2.2R is a basic equation for establishing the APRC. This equates, on an annual basis, the total present value of drawdowns on the one hand and the total present value of repayments and payments of charges on the other.

[Note: Annex I, Part I of the MCD]

10A.2.2 R The equation referred to in MCOB 10A.2.1R is:

$$\sum_{k=1}^{m} C_k (1 + X)^{-t_{k}} = \sum_{l=1}^{m'} D_l (1 + X)^{-s_{l}}$$

where:

- $X$ is the APRC
- $m$ is the number of the last drawdown
- $k$ is the number of a drawdown, thus $1 \leq k \leq m$
- $C_k$ is the amount of drawdown $k$
- $t_k$ is the interval, expressed in years and fractions of a year, between the date of the first drawdown and the date of each subsequent drawdown, thus $t_1 = 0$
- $m'$ is the number of the last repayment or payment of charges
- $l$ is the number of a repayment or payment of charges
- $D_l$ is the amount of a repayment or payment of charges
- $s_l$ is the interval, expressed in years and fractions of a year, between the date of the first drawdown and the date of each repayment or
payment of charges.

[Note: Annex I, Part I of the MCD]

10A.2.3 R The following matters must be applied when calculating the APRC.

(1) The amounts paid by both parties at different times must not necessarily be equal and must not necessarily be paid at equal intervals.

(2) The starting date must be that of the first drawdown.

(3) (a) Intervals between dates used in the calculations must be expressed in years or in fractions of a year. A year is presumed to have 365 days (or 366 days for leap years), 52 weeks or 12 equal months. An equal month is presumed to have 30.41666 days (ie, 365/12), regardless of whether or not it is a leap year.

(b) Where intervals between dates used in the calculations cannot be expressed as a whole number of weeks, months or years, the intervals must be expressed as a whole number of one of those periods in combination with a number of days. Where using days:

(i) every day must be counted, including weekends and holidays;

(ii) equal periods and then days must be counted backwards to the date of the initial drawdown;

(iii) the length of the period of days must be obtained excluding the first day and including the last day and must be expressed in years by dividing this period by the number of days (365 or 366 days) of the complete year counted backwards from the last day to the same day of the previous year.

(4) The result of the calculation must be expressed with an accuracy of at least one decimal place. If the figure at the following decimal place is greater than or equal to 5, the figure at the preceding decimal place must be increased by one.

(5) The equation can be rewritten using a single sum and the concept of flows \( (A_k) \), which will be positive or negative, in other words either paid or received during periods 1 to \( n \), expressed in years, using the following formula:

\[
s = \sum_{k=1}^{n} A_k (1 + X)^{-k}
\]
where $s$ is the present balance of flows. If the aim is to maintain the equivalence of flows, the value of $s$ will be zero.

[Note: Annex I, Part I of the MCD]

10A.3 APRC: additional assumptions

10A.3.1 R (1) If an MCD regulated mortgage contract gives the consumer freedom of drawdown, the total amount of credit must be deemed to be drawn down immediately and in full.

(2) If an MCD regulated mortgage contract provides different ways of drawdown with different charges or borrowing rates, the total amount of credit must be deemed to be drawn down at the highest charge and borrowing rate applied to the most common drawdown mechanism for that type of MCD regulated mortgage contract.

(3) If an MCD regulated mortgage contract gives the consumer freedom of drawdown in general but imposes, amongst the different ways of drawdown, a limitation with regard to the amount of credit and period of time, the amount of credit must be deemed to be drawn down on the earliest date provided for in the MCD regulated mortgage contract and in accordance with those drawdown limits.

(4) If different borrowing rates and charges are offered for a limited period or amount, the highest borrowing rate and charges must be deemed to be the borrowing rate and charges for the whole duration of the MCD regulated mortgage contract.

(5) For an MCD regulated mortgage contract for which a fixed borrowing rate is agreed in relation to the initial period, at the end of which a new borrowing rate is determined and subsequently periodically adjusted according to an agreed indicator or internal reference rate the calculation of the APRC must be based on the assumption that, at the end of the fixed borrowing rate period, the borrowing rate is the same as at the time of calculation of the APRC, based on the value of the agreed indicator or internal reference rate at that time, but is not less than the fixed borrowing rate.

(6) If the ceiling applicable to the credit has not yet been agreed, that ceiling must be assumed to be EUR 170,000. In the case of an MCD regulated mortgage contract (other than an MCD contingent liability or guarantee) the purpose of which is not to acquire or retain a right in immovable property or land, an overdraft facility, a deferred debit card or a credit card, this ceiling must be assumed to be EUR 1,500.
(7) In the case of an MCD regulated mortgage contract that does not fall within MCOB 10A.3.1 R(9), (10), (11) or (12):

(a) if the date or amount of a repayment of capital to be made by the customer cannot be ascertained, it must be assumed that the repayment is made at the earliest date provided for in the credit agreement, and is for the lowest amount for which the MCD regulated mortgage contract provides;

(b) if the interval between the date of initial drawdown and the date of the first payment to be made by the customer cannot be ascertained, it must be assumed to be the shortest interval.

(8) Where the date or amount of a payment to be made by the consumer cannot be ascertained on the basis of the MCD regulated mortgage contract or the assumptions set out at MCOB 10A.3.1R(7), (9), (10), (11) or (12), it must be assumed that the payment is made in accordance with the dates and conditions required by the MCD mortgage lender and, when these are unknown:

(a) interest charges are paid together with the repayments of the capital;

(b) non-interest charges expressed as a single sum are paid at the date of entering into the MCD regulated mortgage contract;

(c) non-interest charges expressed as several payments are paid at regular intervals, commencing with the date of the first repayment of capital and, if the amount of such payment is not known, they must be assumed to be equal amounts;

(d) the final payment clears the balance of capital, interest and other charges, if any.

[Note: Annex I, Part II, paragraph (h) of the MCD]

(9) In the case of an MCD regulated mortgage contract that is an overdraft facility, the total amount of credit must be deemed to be drawn down in full and for the whole duration of the MCD regulated mortgage contract. If the duration of the overdraft facility is not known, the APRC must be calculated on the assumption that the duration of the credit is three months.

(10) In the case of an open-ended MCD regulated mortgage contract, other than an overdraft facility and an MCD exempt bridging loan: it must be assumed that:

(a) the credit is provided for a period of time starting from the date of the initial drawdown, and the final payment made by the consumer clears the balance of capital, interest and other
charges, if any, where that period of time is:

(i) 20 years for an *MCD regulated mortgage contract*, the purpose of which is to acquire or retain rights in immovable property;

(ii) 1 year for an *MCD regulated mortgage contract* the purpose of which is not to acquire or retain rights in immovable property or which is drawn down by a deferred debit card or a credit card.

(b) the capital is repaid by the *consumer* in equal monthly payments, commencing one month after the date of the initial drawdown. However, in cases where the capital must be repaid only in full, in a single payment, within each payment period, successive drawdowns and repayments of the entire capital by the *consumer* must be assumed to occur over the period of one year. Interest and other charges must be applied in accordance with those drawdowns and repayments of capital and as provided for in the *MCD regulated mortgage contract*.

For the purposes of this rule, an open-ended *MCD regulated mortgage contract* is an *MCD regulated mortgage contract* without fixed duration and includes credits which must be repaid in full within or after a period but, once repaid, become available to be drawn down again.

(11) **In the case of an MCD contingent liability or guarantee**, the total amount of credit must be deemed to be drawn down in full as a single amount at the earlier of:

(a) the latest drawdown date permitted under the *MCD regulated mortgage contract* being the potential source of the *MCD contingent liability or guarantee*; or

(b) for a rolling *MCD regulated mortgage contract*, at the end of the initial period prior to the rollover of the agreement.

(12) **In the case of a shared equity credit agreement**:

(a) the payments by a *consumer* must be deemed to occur at the latest date or dates permitted under the *shared equity credit agreement*;

(b) percentage increases in value of the immovable property which secures the *shared equity credit agreement*, and the rate of any inflation index referred to in the agreement, must be assumed to be:

(i) a percentage equal to the higher of:
(aa) the current central bank target inflation rate; or

(bb) the level of inflation in the EEA State where the immovable property is located at the time that the MCD regulated mortgage contract is entered into; or

(ii) 0% if those percentages are negative.

[Note: Annex I, Part II of the MCD]

10A.3.2 G Articles 17(1) to (5), (7) and (8) and Annex I of the MCD, which MCOB 10A transpose, are subject to maximum harmonisation.

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

Amend the following text as shown.

11.6 Responsible lending and financing

...  

11.6.2 R (1) ... 

(a) ... 

[Note: article 18(1) of the MCD]

(b) ... 

[Note: article 18(5)(a) of the MCD]

... 

11.6.3 R ... 

(2) ... 

(a) ... 

[Note: article 18(6) of the MCD]

... 

...
11.6.5 R  (1) …

[Note: article 18(3) of the MCD]

(2) …

[Note: article 20(1) of the MCD]

…

(4) …

[Note: article 18(1) of the MCD]

…

11.6.11 G  (1) Examples of committed expenditure are: credit commitments such as secured and unsecured loans and credit cards; …

…

11.6.18A R  (1) Under MCOB 11.6.5R(4), in taking account of likely future interest rate increases for the purposes of its assessment of whether the customer will be able to pay the sums due, a second charge lender must also consider the likely future interest rates of any regulated mortgage contract in existence at the time of the assessment and remaining in existence after the relevant second charge regulated mortgage contract has been entered into.

(2) The second charge lender must, at a minimum, base its assessment under (1) on the balance outstanding of any regulated mortgage contract relevant under (1).

…

11.6.20 R  …

[Note: article 18(2) of the MCD]

…

11.6.21A R  An MCD mortgage lender must keep a record of the valuation and types of immovable property accepted as a security, as well as the related mortgage underwriting policies used.

[Note: article 19(2) and second sentence of article 26(1) of the MCD]

11.6.21B G  When considering the period for which the records kept under MCOB 11.6.21AR are to be retained, MCD mortgage lenders are reminded of the high-level record-keeping provisions in SYSC.
11.6.34 R …

(1) …

[Note: article 18(3) of the MCD]

(2) …

[Note: article 20(1) of the MCD]

11.6.40A G A shared equity credit agreement may be an interest-only mortgage.

11.6.45 G …

(2) the periodic repayment of capital from irregular sources of income (such as bonuses or some other sources of income from self-employment); and

(3) the sale of assets such as another property or other land owned by the customer; and

(4) for a shared equity credit agreement, the sale of the property which is the subject of the agreement.

11.6.58 R A mortgage lender may not enter into an interest roll-up mortgage, or vary an existing regulated mortgage contract so that it becomes an interest roll-up mortgage, unless it is:

…

(4) a loan solely for business purposes; or

(5) a shared equity credit agreement.

11.6.59A G A shared equity credit agreement may be an interest roll-up mortgage.

Record-keeping

11.6.60 R …

[Note: article 18(2) of the MCD]
11.7 Transitional arrangements

11.7.1 R When considering entering into a first charge regulated mortgage contract or varying a first charge regulated mortgage contract…

(1) the customer has:

(a) an existing first charge regulated mortgage contract (whether or not entered into on or after 31 October 2004) with the firm, or home purchase plan (whether or not entered into on or after 6 April 2007) which was in existence prior to 26 April 2014; or

(b) an existing first charge regulated mortgage contract with the firm, or home purchase plan which was entered into in reliance on, and in compliance with, MCOB 11.7;

...

11.7.2 R …

(5) the proposed transaction is:

(a) the variation of an existing non-MCD first charge regulated mortgage contract.

(b) the entry into a non-MCD first charge regulated mortgage contract, or

(c) a home purchase plan or variation of a home purchase plan.

11.7.3 R (1) When considering entering into a first charge regulated mortgage contract which is an interest-only mortgage or varying a first charge regulated mortgage contract which is an interest-only mortgage…

...

11.7.6 R Where a firm has elected to apply any of MCOB TPs 22, 24, 26, 28, 30, 32, 34, 36, 38 or 40 in MCOB TP1.1, any first charge regulated mortgage contract they propose to enter into between 21 September 2015 and 21 March 2016 is not to be regarded as an MCD regulated mortgage contract for the purposes of this chapter.

Insert the following new chapter, MCOB 11A, after MCOB 11. The text is not underlined.
11A Additional MCD responsible lending requirements

11A.1 MCD mortgage credit intermediary: submission of information to MCD mortgage lender

11A.1.1 R An MCD mortgage credit intermediary must accurately submit any relevant information obtained from the consumer to the MCD mortgage lender to enable an assessment of affordability to be carried out.

[Note: article 20(2) of the MCD]

11A.2 Prohibition on cancellation or variation of MCD regulated mortgage contract on grounds of creditworthiness

11A.2.1 R An MCD mortgage lender must not cancel, or vary the terms of, an MCD regulated mortgage contract to the detriment of the consumer on the grounds that the assessment of affordability was incorrectly conducted or the information provided by the consumer prior to the agreement of the MCD regulated mortgage contract was incomplete. However, this does not apply where the MCD mortgage lender can demonstrate that the consumer knowingly withheld or falsified information relevant to the assessment of affordability of the MCD regulated mortgage contract.

[Note: articles 18(4) and 20(3) of the MCD]

11A.3 Obtaining information for, and assessment of, affordability from the consumer and rejecting an application

11A.3.1 R (1) An MCD mortgage lender must specify in a fair, clear and not misleading way, in good time before assessing affordability of a MCD regulated mortgage contract, to a consumer:

(a) all the necessary information and independently verifiable evidence that the consumer needs to provide; and

(b) the timeframe within which the consumer needs to provide the information or evidence.

(2) A request for information or evidence under (1) must be proportionate and limited to what is necessary to conduct a proper affordability assessment.

(3) A request for information or evidence under (1) may be made directly or through an MCD mortgage credit intermediary. The MCD mortgage lender or the MCD mortgage credit intermediary, if requesting on behalf of the MCD mortgage lender, must:
(a) ensure the consumer is aware of the need to provide correct information in response to the request and that such information is as complete as necessary to conduct a proper assessment of affordability; and

(b) warn the consumer that, where the MCD mortgage lender is unable to carry out an assessment of affordability because the consumer chooses not to provide the information or evidence necessary for an assessment of affordability, the credit cannot be granted.

(4) The MCD mortgage lender may seek clarification, directly or through an MCD mortgage credit intermediary, of the information or evidence received in response to a request under (1), where necessary, to enable the assessment of affordability of an MCD regulated mortgage contract.

[Note: article 20(3) and (4) of the MCD]

11A.3.2 G Under the Data Protection Act 1998, an MCD mortgage lender must inform a consumer in advance if a database is to be consulted in conducting any assessment of affordability for an MCD regulated mortgage contract.

[Note: article 18(5)(b) of the MCD]

11A.3.3 R (1) Where an MCD mortgage lender rejects a consumer’s application for an MCD regulated mortgage contract, the MCD mortgage lender must inform the consumer without delay:

(a) of the rejection and, where applicable, that the decision is based on automated processing of data; and

(b) where the rejection is based on the result of the database consultation, of the result of such consultation and of the particulars of the database consulted.

[Note: article 18(5)(c) of the MCD]

(2) No obligation under (1) shall be interpreted in a manner which contravenes the Data Protection Act 1998.

Amend the following text as shown.

12 Charges

12.1 Application
Charges under second charge regulated mortgage contracts

12.1.5A  R  The rules in MCOB 12.4 (Payment shortfall charges: regulated mortgage contracts) and MCOB 12.5 (Excessive charges: regulated mortgage contracts, home reversion plans and regulated sale and rent back agreements) apply to second charge regulated mortgage contracts entered into before 21 March 2016 in relation to charges imposed on a customer for events occurring from that date onwards.

12.3  Early repayment charges: regulated mortgage contracts

12.3.5  G  The Consumer Credit (Early Settlement) Regulations 2004 continue to apply to a second charge regulated mortgage contract entered into before 21 March 2016.

12.5  Excessive charges: regulated mortgage contracts, home reversion plans and regulated sale and rent back agreements

12.5.5  R  A second charge lender may only charge interest on charges applied to a customer for breach of a second charge regulated mortgage contract if the interest is simple interest.

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

12.6.1  G  Firms are reminded that, in relation to a regulated mortgage contract which is solely for a business purpose or is with a high net worth mortgage customer, who is not a consumer under an MCD regulated mortgage contract, in circumstances where MCOB 7.7.1R applies, if there is a new early repayment charge or a change to the existing early repayment charge, MCOB 7.7.1R(2) requires a firm to notify the customer within five business days of the maximum amount payable as an early repayment charge.
13.3 Dealing fairly with customers with a payment shortfall: policy and procedures

Vulnerable customers

13.3.1C R A firm must establish and implement clear, effective and appropriate policies and procedures for the fair and appropriate treatment of customers whom the firm understands, or reasonably suspects, to be particularly vulnerable.

13.3.1D G (1) Customers who have mental health difficulties or mental capacity limitations may fall into the category of particularly vulnerable customers.

(2) In developing procedures and policies for dealing with customers who may not have the mental capacity to make financial decisions, a firm may wish to have regard to the principles outlined in the Money Advice Liaison Group (MALG) Guidelines "Good Practice Awareness Guidelines for Consumers with Mental Health Problems and Debt".

Customers in payment difficulties: procedures

13.3.2A R …

…

Insert the following new sub-chapter, MCOB 13.4A, after MCOB 13.4. The text is not underlined.

13.4A Data sharing with other charge holders

13.4A.1 R (1) If a firm commences legal proceedings against a customer in respect of a regulated mortgage contract or a home purchase plan, it must give notice of the commencement of the legal proceedings to all persons specified in MCOB 13.4A.2R at the time of their commencement, or as soon as reasonably practicable afterwards.

(2) If a customer voluntarily surrenders possession of their property to a firm, the firm must give all persons specified in MCOB 13.4A.2R notice of the surrender at the time it happens, or as soon as reasonably practicable afterwards.
(3) If a customer is placed in an assisted voluntary sale process, a firm must give all persons specified in MCOB 13.4A.2R:

(a) notice that the customer has entered an assisted voluntary sale process within ten working days from the date the customer entered the assisted voluntary sale process;

(b) notice of the proposed sale and details of the proposed sale price and method of sale at least ten working days before the date when the property is proposed to be offered for sale; and

(c) details of the sale price within no more than ten working days from the acceptance of an offer to purchase the property.

Relevant other charge holders

13.4A.2 R Notices and other details under MCOB 13.4A.1R are to be given to each person having a legal or equitable mortgage in the relevant property over which the firm has security under a regulated mortgage contract or a home purchase plan.

13.4A.3 G In complying with MCOB 13.4A.2R, a firm should make reasonable efforts to discover the existence of other charge holders at the start of the assisted voluntary sale/litigation process.

Amend the following text as shown.

TP1.1

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<td>45</td>
<td>MCOB 5A, MCOB 6A and MCOB 7B</td>
<td>R</td>
<td>A firm that is an MCD mortgage lender or MCD mortgage credit intermediary may provide an illustration instead of an ESIS for an MCD regulated mortgage contract that is not a second charge</td>
<td>From 21 March 2016 until 21 March 2019</td>
<td>21 March 2016</td>
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</table>
regulated mortgage contract.

[Note: article 14(5) of the MCD]

46 MCOB 5A, MCOB 6A and MCOB 7B

A firm that applies TP 45 must also provide the information in (1) to (3) below:

(1) for a variable interest-rate loan, the warning and the additional APRC required by section 4 of MCOB 5A Annex 1R and MCOB 5A Annex 2, 6.2R to 6.8R;

(2) for a foreign currency loan, the warning and illustrative example required by section 6 of MCOB 5A Annex 1R and MCOB 5A Annex 2, 8.6R; and

(3) the reflection period required by MCOB 6A.3.4R(1) and (2), section 11 of MCOB 5A Annex 1R and MCOB 5A Annex 2, 13.1R.

From 21 March 2016 until 21 March 2019

47 MCOB 5A, MCOB 6A and MCOB 7B

A firm must provide the information required by TP 46 no later than when it provides the illustration.

From 21 March 2016 until 21 March 2019

48 MCOB 5A, MCOB 6A and MCOB 7B

A firm may provide the information required by MCOB TP 46 either within the illustration or separately in a durable medium. Where a firm provides that information within the illustration, it should either add the information within the most relevant section of the illustration or it should add a new section which should be marked “[number of the preceding section]A” to identify the additional information.

From 21 March 2016 until 21 March 2019

49 MCOB 5A

Where a firm provides an

From 21 March 2016 until 21 March 2019
additional APRC in accordance with TP 46R(1) above, the firm is not required to comply with MCOB 5.6.59R(1)(g) and (h).

Where a firm applies MCOB TP 45, MCOB 5.6.34R(3) has effect with the following amendment: “The overall cost for comparison is [insert the APR]% APR’ or ‘The APRC applicable to your loan is [APRC]’.”

A firm may cease to apply MCOB TP 45 at any time,

MCOB 2A.6.1R does not apply to information provided for a contract entered into before 21 March 2016 that would be an MCD regulated mortgage contract if it were entered into on, or after, 21 March 2016

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Sch 1 Record keeping requirements

<table>
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<tr>
<th>Handbook reference</th>
<th>Subject of record</th>
<th>Contents of record</th>
<th>When record must be made</th>
<th>Retention period</th>
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<td>Date of confirmation or approval</td>
<td>One year from the date on which the financial promotion was last communicated</td>
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<td>Date of confirmation</td>
<td>One year from the date-on</td>
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<td>MCOB 3.10.3G(1)</td>
<td>Each non-real-time financial promotion</td>
<td>A copy of the financial promotion as finally published</td>
<td>Date of confirmation or approval</td>
<td>One year from the date on which the financial promotion was last communicated</td>
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Annex E

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Part 1: Comes into force on 21 December 2015

13 Exercise of passport rights by UK firms

13.2 Introduction

13.2.2 A UK firm should be aware that the guidance is the FSA’s FCA’s interpretation of the Single Market Directives, the Act and the legislation made under the Act. The guidance is not exhaustive and is not a substitute for firms consulting the legislation or taking their own legal advice in the United Kingdom and in the relevant EEA States.

13.2.6 As set out in article 32(1) of the MCD, a UK firm will only be able to carry on MCD credit intermediation activity in relation to an MCD credit agreement offered by a non-credit institution in an EEA state if that EEA state permits non-credit institutions to offer MCD credit agreements.

13.3 Establishing a branch in another EEA State

The conditions for establishing a branch

13.3.2 A UK firm other than a UK pure reinsurer cannot establish a branch in another EEA State for the first time under an EEA right unless the relevant conditions in paragraphs 19(2), (4) and (5) of Part III of Schedule 3 to the Act are satisfied. It is an offence for a UK firm which is not an authorised person to contravene this prohibition (paragraph 21 of Part III of Schedule 3 to the Act). These conditions are that:

(3) if the UK firm's EEA right derives from the Insurance Mediation Directive or the MCD, one month has elapsed beginning on the date on which the UK firm received notice
that the appropriate UK regulator had given a consent notice as described in SUP 13.3.6G(1) (see SUP 13.3.2AG);

... 

... 

Issue of a consent notice to the Host State regulator

13.3.5 G ... 

(3) If the UK firm's EEA right derives from the MCD, the FCA will give the Host State regulator a consent notice within one month of the date on which it received the UK firm's notice of intention. The Host State regulator then has a further two months to prepare for the supervision of the UK firm.

... 

13.3.6 G ... 

(5) Where a consent notice is given under the MCD in relation to a tied MCD credit intermediary, it will include details of:

(a) any MCD creditor or group to which it is tied; and 

(b) whether the MCD creditor or group take full and unconditional responsibility for the tied MCD credit intermediary’s activities.

... 

13.4 Providing cross border services into another EEA State

The conditions for providing cross border services into another EEA State

13.4.2 G A UK firm, other than a UK pure reinsurer or an AIFM exercising an EEA right to market an AIF under AIFMD, cannot start providing cross border services into another EEA State under an EEA right unless it satisfies the conditions in paragraphs 20(1) of Part III of Schedule 3 to the Act and, if it derives its EEA right from the Insurance Directives, AIFMD, MiFID or the UCITS Directive, paragraph 20(4B) of Part III of Schedule 3 to the Act. If a UK firm derives its EEA right from the MCD, it cannot start providing cross border services into another EEA State under an EEA right unless it satisfies the conditions in paragraphs 20(1) of Part III of Schedule 3 to the Act and paragraph 20(4BB) of Part III of Schedule 3 to the Act. It is an offence for a UK firm which is not an authorised person to breach this prohibition (paragraph 21 of Part III of Schedule 3 to the Act). The conditions are that:
(4) if the UK firm is passporting under AIFMD, the firm has received written notice from the FCA as described in SUP 13.4.4-AG(1)(c); or

(5) if the UK firm is passporting under the MCD, one month has elapsed, beginning with the date on which the firm receives the notice, as described in SUP 13.4.5G.

Issuing a consent notice or notifying the Host State regulator

13.4.4 G …

(3) If the UK firm’s EEA right derives from the MCD, the FCA will give the Host State regulator a consent notice within one month of the date on which it received the UK firm’s notice of intention.

(4) Where a consent notice is given under the MCD in relation to a tied MCD credit intermediary, the consent notice will include details of:

(a) any MCD creditor or group to which the firm is tied; and

(b) whether the MCD creditor or group take full and unconditional responsibility for the tied MCD credit intermediary’s activities.

Applicable provisions for cross border services

13.4.6A G If a UK firm is passporting under the MCD, then the Host State regulator will notify the UK firm if there are any applicable provisions within two months of receiving a consent notice.

13.4.7 G …

13.5 Notices of intention

Specified contents: notice of intention to provide cross border services

13.5.2 R A UK firm wishing to provide cross border services into a particular EEA State for the first time under an EEA right other than under the auction regulation must submit a notice in the form set out in:
13.6 Changes to branches

Firms passporting under the MCD

13.6.9D G (1) A UK firm which has exercised an EEA right deriving from the MCD to establish a branch, must not make any material changes to the requisite details of the branch unless it has complied with the requirements in regulation 17(B)(2).

(2) The requirements in regulation 17(B)(2) are that

(a) the UK firm has given notice to the FCA stating the details of the proposed change; and

(b) the period of one month beginning with the day on which the UK firm gave notice has elapsed.

(3) Paragraph (1) does not apply to changes occasioned by circumstances beyond the control of the UK firm.

Changes arising from circumstances beyond the control of a UK firm

13.6.10 G …

(3) This guidance is not applicable to MiFID investment firms, firms passporting under the MCD or AIFMs.

The process

13.6.11 G When the appropriate UK regulator receives a notice from a UK firm other than a MiFID investment firm (see SUP 13.6.5G(1) and SUP 13.6.7G(1)) a pure reinsurer (see SUP 13.6.9BR), a UK firm exercising an EEA right under the MCD (see (SUP 13.6.9DG) or an AIFM (see SUP 13.6.9CG), it is required by regulations 11(4) and 13(4) to either refuse, or consent to the change within a period of one month from the day on which it received the notice.

The process: MCD

13.6.19 G When the FCA receives a notice from a UK firm exercising an EEA right under the MCD it will, under regulation 17(B)(3), inform the relevant Host State regulator of the proposed change as soon as reasonably practicable.
The UK firm in question may make the change once a period of one month has elapsed beginning with the day on which it gave notice.

13.7 Changes to cross border services

13.7.1 G Where a UK firm is exercising an EEA right under the UCITS Directive, MiFID, the Insurance Directives, the MCD or AIFMD and is providing cross border services into another EEA State, any changes to the details of the services are governed by the EEA Passport Rights Regulations. References to regulations in this section are to the EEA Passport Rights Regulations. A UK firm which is not an authorised person should note that contravention of the prohibition imposed by regulation 12(1), 12A(1) or 16(1) is an offence. It is a defence, however, for the UK firm to show that it took all reasonable precautions and exercised due diligence to avoid committing the offence.

... Firms passporting under the MCD

13.7.15 G (1) A UK firm which has exercised an EEA right deriving from the MCD to provide a cross border service, must not make any material changes to the service unless it has complied with the requirements in regulation 17(B)(2).

(2) The requirements in regulation 17(B)(2) are that:

(a) the UK firm has given notice to the FCA stating the details of the proposed change; and

(b) the period of one month has elapsed, beginning with the day on which the UK firm gave notice.

(3) Paragraph (1) does not apply to a changes occasioned by circumstances beyond the control of the UK firm.

13.8 Changes of details: provision of notices to the appropriate UK regulator

13.8.1 R (1) Where a firm is required to submit a notice of a change to a branch referred to in SUP 13.6.5G(1), SUP 13.6.5BG(1), SUP 13.6.7G(1), SUP 13.6.8G, SUP 13.6.9BR, SUP 13.6.10G(1), SUP 13.6.9CG and SUP 13.6.9DG or a notice of a change to cross border services referred to in SUP 13.7.3G(1), SUP 13.7.3AG(1), SUP 13.7.5G(1), SUP 13.7.6G, SUP 13.7.13BG, and SUP 13.7.14G and SUP 13.7.15G, it must complete and submit that notice in accordance with the procedures set out in SUP 13.5 for notifying the establishing of a branch or the provision of cross border services.
13 Annex
9R

Passporting: MCD

This annex consists of one or more forms. Forms can be completed online now by [address to follow]:

Passporting: MCD - SUP 13 Annex 9R

13A Qualifying for authorisation under the Act

13A.1 Application and purpose

... 

13A.1.3 G (1) Under the Gibraltar Order made under section 409 of the Act, a Gibraltar firm is treated as an EEA firm under Schedule 3 to the Act if it is:

...

(g) authorised in Gibraltar under the MCD

...

(2) Gibraltar insurance companies, credit institutions, insurance intermediaries, investment firms, management companies, and AIFMs and MCD credit intermediaries are allowed to passport their services into the United Kingdom if they comply with the relevant notification procedures. So, any references in this chapter to EEA State or EEA right include references to Gibraltar and the entitlement under the Gibraltar Order where appropriate.

...

13A.4 EEA firms establishing a branch in the United Kingdom

...
13A.4.4- G When the FCA receives a consent notice from the EEA firm’s Home State regulator in respect of a EEA firm within paragraph 5(i) of Part I of Schedule 3 to the Act, it will, under paragraph 13(3A):

(1) notify the firm of the applicable provisions (if any); and

(2) use the information received from the EEA firm’s Home State regulator to enter the necessary information into the Financial Services Register.

...

13A.5 EEA firms providing cross border services into the United Kingdom

...

13A.5.4 G ...

13A.5.4- G When the FCA receives a consent notice from the EEA firm’s Home State regulator in respect of a firm within paragraph 5(i) of Part I of Schedule 3 to the Act, it will, under paragraph 14(3ZA), use the information received from the EEA firm’s Home State regulator to enter the necessary information into the Financial Services Register.

...

13A Annex 1G Application of the Handbook to Incoming EEA Firms

<table>
<thead>
<tr>
<th>(1) Module of Handbook</th>
<th>(2) Potential application to an incoming EEA firm with respect to activities carried on from an establishment of the firm (or its appointed representative) in the United Kingdom</th>
<th>(3) Potential application to an incoming EEA firm with respect to activities carried on other than from an establishment of the firm (or its appointed representative) in the United Kingdom</th>
</tr>
</thead>
<tbody>
<tr>
<td>MCOB</td>
<td>Applies where the activity is carried on with or for a</td>
<td>Applies where the activity is carried on with or for a</td>
</tr>
</tbody>
</table>

...
Matters reserved to a Home State regulator

Annex 2G

Requirements in the interest of the general good

2. The Single Market Directives, and the Treaty (as interpreted by the European Court of Justice) adopt broadly similar approaches to reserving responsibility to the Home State regulator. To summarise, the FCA or PRA, as Host State regulator, is entitled to impose requirements with respect to activities carried on within the United Kingdom if these can be justified in the interests of the "general good" and are imposed in a non-discriminatory way. This general proposition is subject to the following in relation to activities passported under the Single Market Directives:

(1) The Single Market Directives expressly reserve responsibility for the prudential supervision of a MiFID investment firm, CRD credit institution, UCITS management company AIFM or passporting insurance undertaking to the Firm's Home State regulator. The Insurance Mediation Directive reaches and the MCD reach the same position without expressly referring to the concept of prudential supervision. Accordingly, the FCA, as Host State regulator, is entitled to regulate only the conduct of the firm's business within the United Kingdom;

Requirements under MCD

11L Under article 34(2) of the MCD, ensuring compliance with the obligations in articles 7(1), 8, 9, 10, 11, 13, 14, 15, 16, 17, 20, 22 and 39 of the MCD by incoming EEA branches is the responsibility of the
11M Ensuring compliance with the obligations in articles 7(1), 8, 9, 10, 11, 13, 14, 15, 16, 17, 20, 22 and 39 of the MCD by EEA firms providing cross border services is the responsibility of the Home State.

14 Incoming EEA firms changing details, and cancelling qualification for authorisation

14.1 Application and purpose

... 

14.1.3 G (1) Under the Gibraltar Order made under section 409 of the Act, a Gibraltar firm is treated as an EEA firm under Schedule 3 to the Act if it is:

... 

(g) authorised in Gibraltar under the MCD 

... 

(2) Gibraltar insurance companies, credit institutions, insurance intermediaries, investment firms, management companies, and AIFMs and MCD credit intermediaries are allowed to passport their services into the United Kingdom if they comply with the relevant notification procedures. So, any references in SUP 14 to EEA State or EEA right include references to Gibraltar and the entitlement under the Gibraltar Order where appropriate.

... 

14.2 Changes to branch details

... 

Firms passporting under the MCD

14.2.17 G As required by regulation 7B(1), where an incoming EEA firm passporting under the MCD has established a branch in the UK, it must not make a material change to any of the matters referred to in regulation 2(8)(b) to (e) or regulation 3(6)(b) to (e), unless it has complied with the relevant requirements.
The relevant requirements are set out in regulation 7B(4) or, where the change arises from circumstances beyond the incoming EEA firm's control, regulation 7B(5).

The relevant requirements in regulation 7B(4) are that:

1. The incoming EEA firm has given a notice to the FCA and its home state regulator stating the details of the proposed changes; and
2. Either:
   a. The FCA has informed the incoming EEA firm that it may make the change; or
   b. A period of one month has elapsed beginning with the day on which the incoming EEA firm gave the notice under (1).

Where the change arises from circumstances beyond the incoming EEA firm's control, the incoming EEA firm is required by regulation 7B(5) to give notice to the FCA and its Home State regulator stating the details of the change, as soon as reasonably practicable.

The FCA believes that, for a change to arise from circumstances beyond the control of an incoming EEA firm, the circumstances should be outside the control of the incoming EEA firm as a whole and not just its UK branch. For example, the FCA considers that this provision would be unlikely to apply to circumstances in which lack of planning at the incoming EEA firm's head office resulted in a problem arising in a UK branch. In practice, therefore, use of this provision is likely to be rare.

Changes to cross border services

Where an incoming EEA firm passporting under the MiFID, UCITS Directive, Insurance Directives, MCD or AIFMD is exercising an EEA right and is providing cross border services into the United Kingdom, the EEA Passport Rights Regulations govern any changes to the details of those services. Where an incoming EEA firm has complied with the EEA Passport Rights Regulations, then the firm's permission under Schedule 3 to the Act is to be treated as varied.

Firms passporting under the MCD

As required by regulation 7B(1), where an incoming EEA firm is providing cross border services under the MCD in the UK, it must not make a material change to any of the matters referred to in regulation 2(8)(b) to (e) or regulation 3(6)(b) to (e), unless it has complied with the relevant requirements.
The relevant requirements are set out in regulation 7B(4) or, where the change arises from circumstances beyond the incoming EEA firm's control, regulation 7B(5).

Where the change arises from circumstances within the control of the incoming EEA firm, the relevant requirements in regulation 7B(4) are that:

1. the incoming EEA firm has given a notice to the FCA and its Home State regulator stating the details of the proposed changes; and

2. either:
   a. the FCA has informed the incoming EEA firm that it may make the change; or
   b. a period of one month has elapsed beginning with the day on which the incoming EEA firm gave the notice under (1).

Where the change arises from circumstances beyond the incoming EEA firm's control, the incoming EEA firm is required by regulation 7B(5) to give a notice to the FCA and to its Home State regulator stating the details of the change as soon as reasonably practicable.

App 3 Guidance on passporting issues

App 3.3 Background

(2) The European Commission has not produced an interpretative communication on the Insurance Mediation Directive, AIFMD, the MCD or the UCITS Directive.

The Single Market Directives require credit institutions, insurance undertakings (other than reinsurance undertakings, MiFID investment firms, AIFMs, UCITS management companies, and insurance intermediaries and MCD credit intermediaries) to make a notification to the Home State before establishing a branch or providing cross border services …
App 3.9  Mapping of MiFID, CRD, AIFMD, UCITS Directive, MCD and Insurance Mediation Directive to the Regulated Activities Order

App 3.9.1 The following Tables 1, 2, 2ZA 2A and 2B provide an outline of the regulated activities and specified investments that may be of relevance to firms considering undertaking passported activities under the CRD, MiFID, AIFMD, the UCITS Directive, the MCD and the Insurance Mediation Directive. The tables may be of assistance to UK firms that are thinking of offering financial services in another EEA State and to EEA firms that may offer those services in the United Kingdom.

App 3.9.2 The tables provide a general indication of the investments and activities specified in the Regulated Activities Order that may correspond to categories provided for in the CRD, MiFID, AIFMD, the UCITS Directive, the MCD or the Insurance Mediation Directive. The tables do not provide definitive guidance as to whether a firm is carrying on an activity that is capable of being passported, nor do the tables take account of exceptions that remove the effect of articles. Whether a firm is carrying on a passported activity will depend on the particular circumstances of the firm. If a firm’s activities give rise to potential passporting issues, it should obtain specialist advice on the relevant issues.

App 3.9.8 Activities set out in article 4 of the MCD

<table>
<thead>
<tr>
<th>Table 3: MCD activities</th>
<th>Part II RAO specified activities</th>
<th>Part III RAO Investments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Acting as credit intermediary</td>
<td>Articles 25A(1), 25(2A), 53A, 36A(1)(d), (e), (f) and 53DA</td>
<td>Articles 88 and 88D</td>
</tr>
</tbody>
</table>

Part 2: Comes into force on 21 March 2016

12 Appointed representatives

12.2 Introduction
What is an appointed representative?

12.2.1 G …

(4) If an appointed representative has entered into a contract with an MCD credit intermediary and is a person to whom section 39(1BA) of the Act applies, they must also satisfy the conditions in section 39(1BB) of the Act to be an exempt person. See SUP 12.4.10CG for guidance on those conditions.

…

Business for which an appointed representative is exempt

12.2.7 G (1) The Appointed Representatives Regulations are made by the Treasury under section 39(1), (1C) and (1E) of the Act. These regulations describe, among other things, the business for which an appointed representative may be exempt or to which sections 20(1) and (1A) and 23(1A) of the Act may not apply, which is business which comprises any of:

…

(d) arranging (bringing about) a home finance transaction (articles 25A(1), 25A(2A), 25B(1) and 25C(1) of the Regulated Activities Order);

…

(jaa) advising on regulated credit agreements for the acquisition of land (article 53DA of the Regulated Activities Order);

…

What is an introducer appointed representative?

12.2.8 G …

(2) The permitted scope of appointment of an introducer appointed representative does not include in particular:

…

(d) advising on investments, giving basic advice on a stakeholder product, advising on a home finance transaction, advising on regulated credit agreements for the acquisition of land, or other activity …
12.4 What must a firm do when it appoints an appointed representative or an EEA tied agent?

... 

12.4.10A R Before a firm appoints a person as an appointed representative to carry on an MCD credit intermediation activity, it must ensure that the person has, and will maintain on a continuing basis after appointment, professional indemnity insurance in accordance with the rules applicable to MCD credit intermediaries. A firm will satisfy this requirement if:

(1) the appointed representative has professional indemnity insurance which satisfies the rules in MIPRU 3.2 applicable to the activities of the appointed representative, as if the appointed representative were an MCD credit intermediary;

(2) professional indemnity insurance which would satisfy the requirements of SUP 12.4.10AR(1) is provided by the firm; or

(3) the appointed representative holds a comparable guarantee (as understood by reference to MIPRU 3.1.1R(3)(b)) provided by the firm.

[Note: article 31(2) of the MCD]

12.4.10B R (1) Before a firm appoints a person as an appointed representative to carry on MCD credit intermediation activity and on a continuing basis after appointment, it must, in relation to such activities, ensure that:

(a) if the appointed representative is an individual, the individual:

(i) has not been convicted of any serious criminal offences linked to crimes against property or other crimes related to financial activities (other than spent convictions under the Rehabilitation of Offenders Act 1974 or any other national equivalent); and

(ii) has not been adjudged bankrupt (unless the bankruptcy has been discharged); under the law of any part of the United Kingdom or under the law of a country or territory outside the United Kingdom; and

(iii) possesses the appropriate level of knowledge and competence under the rules in TC applicable to the activities of the appointed representative;
(b) if the appointed representative is a body corporate, the members of the board of the appointed representative, and persons performing equivalent tasks:

(i) have not been convicted of any serious criminal offences linked to crimes against property or other crimes related to financial activities (other than spent convictions under the Rehabilitation of Offenders Act 1974 or any other national equivalent); and

(ii) have not been adjudged bankrupt (unless the bankruptcy has been discharged);

under the law of any part of the United Kingdom or under the law of a country or territory outside the United Kingdom; and

(iii) possess the appropriate level of knowledge and competence under the rules in TC applicable to the activities of the appointed representative.

[Note: article 31(2) of the MCD]

12.4.10C G (1) If an appointed representative's scope of appointment is to include MCD credit intermediation activity, the principal must notify the FCA of the appointment before the appointed representative commences that activity (see SUP 12.7.1R(1)).

(2) An appointed representative must not commence an MCD credit intermediation activity until they are included on the Financial Services Register.

(3) If an appointed representative’s scope of appointment is to include MCD credit intermediation activity, the Act provides that that appointed representative’s principal may not be a tied MCD credit intermediary.

12.5 Contracts: required terms

... Prohibition of multiple principals for certain activities

12.5.6A R ... (1B) In relation to any MCD credit intermediation activity, the prohibition must prevent the appointed representative acting as an appointed representative in respect of MCD credit intermediation
activity for any other firm.

...

12.5.6B G ...

(2) The effect of the rule prohibiting multiple principals for certain activities is that, in relation to home finance activities, appointed representatives are restricted to having four principals: one for regulated mortgage contracts other than lifetime mortgages, one for lifetime mortgages, one for home reversion plans and one for home purchase plans. However, if any of the business of the appointed representative involves MCD credit intermediation activity, the appointed representative is restricted to having one principal in relation to that business.

...

Required contract terms for appointed representatives of MCD credit intermediaries

12.5.10 R A firm must ensure that, if appointing an appointed representative to carry on MCD credit intermediation activity, its written contract requires the appointed representative to provide such evidence to the FCA as to the knowledge and competence of the staff of the appointed representative, as the FCA may require from time to time.

[Note: article 9(4) of the MCD]

12.6 Continuing obligations of firms with appointed representatives or EEA tied agents

...

12.6.1B R A firm that is a principal of an appointed representative that carries on MCD credit intermediation activity must monitor the activities of that appointed representative to ensure compliance with obligations imposed under the MCD (including those in MCOB and TC).

[Note: article 31(3) of the MCD]

12.6.1C G SUP 12.6.1BR requires a firm to which that rule applies to monitor the knowledge and competence of the appointed representative that carries on MCD credit intermediation activity and its staff.

...

12.7 Notification requirements
Notification of appointment of an appointed representative

12.7.1 R (1) This rule applies to a firm which intends to appoint:

(a) an appointed representative to carry on insurance mediation activities; or

(b) a tied agent; or

(c) an appointed representative to carry on MCD credit intermediation activity.

…

Notification of changes in information given to the FCA

12.7.7 R …

(1B) If:

(a) (i) the scope of appointment of an appointed representative is extended to cover MCD credit intermediation activity for the first time; and

(ii) the appointed representative is not included on the Financial Services Register; or

(b) the scope of appointment of an appointed representative ceases to include MCD credit intermediation activity;

the appointed representative's principal must give written notice to the FCA of that change before the appointed representative begins to carry on MCD credit intermediation activity under the contract (see SUP 12.4), or as soon as the scope of appointment of the appointed representative ceases to include MCD credit intermediation activity.

[Note: article 31(4) of the MCD]

…

Notification of changes in conditions of appointment

12.7.8 R (1) As soon as a firm has reasonable grounds to believe that any of the conditions in SUP 12.4.2R, SUP 12.4.6R, or SUP 12.4.8AR, SUP 12.4.10AR or SUP 12.4.10BR (as applicable) are not satisfied …
15.8 Notification in respect of particular products and services

15.8.9 R MCD credit intermediaries

15.8.10 R A tied MCD credit intermediary must notify the FCA, as soon as reasonably practicable, if it intends to cease acting on behalf of and under the full responsibility of any firm.

15.8.11 R A MCD credit intermediary must notify the FCA, as soon as reasonably practicable, if it intends to start acting on behalf of and under the full responsibility of any firm.

16.11 Product Sales Data Reporting

16.12 Integrated Regulatory Reporting

16.12.4 R Table of applicable rules containing data items, frequency and submission periods

<table>
<thead>
<tr>
<th>RAG number</th>
<th>Regulated Activities</th>
<th>Provisions containing:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>applicable data items</td>
</tr>
<tr>
<td></td>
<td></td>
<td>reporting frequency/period</td>
</tr>
<tr>
<td></td>
<td></td>
<td>due date</td>
</tr>
<tr>
<td></td>
<td></td>
<td>SUP 16.12.18AR₁ and SUP 16.12.18BR and SUP 16.12.18CR</td>
</tr>
<tr>
<td>RAG 5</td>
<td>home finance administration or home finance providing activity</td>
<td>SUP 16.12.18AR₁ and SUP 16.12.18BR and SUP 16.12.18CR</td>
</tr>
<tr>
<td></td>
<td></td>
<td>SUP 16.12.18AR₁ and SUP 16.12.18BR and SUP 16.12.18CR</td>
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<tr>
<td></td>
<td></td>
<td>SUP 16.12.18AR₁ and SUP 16.12.18BR and SUP 16.12.18CR</td>
</tr>
</tbody>
</table>
16.12.18A R (1) SUP 16.12.18BR and SUP 16.12.18CR do not apply to:
A ... ...

16.12.18B R The applicable data items, reporting frequencies and submission deadlines referred to in SUP 16.12.4R are set out in the table below. Reporting frequencies are calculated from a firm’s accounting reference date, unless indicated otherwise. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period.

<table>
<thead>
<tr>
<th>Description of data item</th>
<th>Data item (note 1)</th>
<th>Frequency</th>
<th>Submission deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital Adequacy (note 4)</td>
<td>...</td>
<td>...</td>
<td>...</td>
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<tr>
<td>...</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Credit Risk (note notes 2 and 4)</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Liquidity (note notes 3 and 4)</td>
<td>...</td>
<td>...</td>
<td>...</td>
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<td>...</td>
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<td>...</td>
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<td></td>
</tr>
<tr>
<td>Note 4</td>
<td>Not applicable if the firm exclusively carries on home finance administration or home finance providing activities in relation to second charge regulated mortgage contracts.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

16.12.18C R Additional applicable data items, reporting frequencies and submission deadlines referred to in SUP 16.12.4R are set out in the table below for a firm carrying on home finance administration or home finance providing activities in relation to second charge regulated mortgage contracts. Reporting frequencies are calculated from a firm’s accounting reference date, unless indicated otherwise. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period.

<table>
<thead>
<tr>
<th>Description of data item</th>
<th>Data item (note 1)</th>
<th>Frequency</th>
<th>Submission deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Analysis of second charge loans to customers</td>
<td>Section A3(a) MLAR</td>
<td>Quarterly</td>
<td>20 business days</td>
</tr>
<tr>
<td>Second charge business</td>
<td>Sections D1(a) and</td>
<td>Quarterly</td>
<td>20 business days</td>
</tr>
</tbody>
</table>
### Description of data item

<table>
<thead>
<tr>
<th>Description of data item</th>
<th>Data item (note 1)</th>
<th>Frequency</th>
<th>Submission deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td>flow and rates</td>
<td>D2(a) MLAR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Second charge lending to individuals</td>
<td>Sections E1(a) and E2(a)</td>
<td>Quarterly</td>
<td>20 business days</td>
</tr>
<tr>
<td>Second charge lending – arrears analysis</td>
<td>Section F(a)</td>
<td>Quarterly</td>
<td>20 business days</td>
</tr>
<tr>
<td>Second charge mortgage administration – arrears analysis</td>
<td>Sections H1(a) and H2(a)</td>
<td>Quarterly</td>
<td>20 business days</td>
</tr>
</tbody>
</table>

#### Note 1

When submitting the completed data item required, a firm must use the format of the data set out in SUP 16 Annex 19AAR. Guidance notes for the completion of the data items are set out in SUP 16 Annex 19BG.

---

16.12.28A R  The applicable data items, reporting frequencies and submission deadlines referred to in SUP 16.12.4R are set out in the table below. Reporting frequencies are calculated from a firm’s accounting reference date, unless indicated otherwise. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period.

<table>
<thead>
<tr>
<th>Description of data item</th>
<th>Data item (note 1)</th>
<th>Frequency</th>
<th>Submission deadline</th>
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<tr>
<td></td>
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<td></td>
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</tr>
<tr>
<td></td>
<td></td>
<td>Annual regulated business revenue up to and including £5 million</td>
<td>Annual regulated business revenue over £5 million</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Capital Adequacy (note 3)</td>
<td>Section D1 RMAR</td>
<td>Half yearly</td>
<td>Quarterly</td>
</tr>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Client money and client assets (note 3)</td>
<td>Section C RMAR</td>
<td>Half yearly</td>
<td>Quarterly</td>
</tr>
<tr>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

#### Note 3

This item does not apply to firms who only carry on home finance mediation activities exclusively in relation to second charge regulated mortgage contracts and who are not otherwise expected to complete it by virtue of carrying out other regulated activities.

---

16 Annex 18AR
### SECTION B: Profit and Loss account

#### B1: Regulated Business Revenue

<table>
<thead>
<tr>
<th></th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Commissions</td>
<td>Fees/Adviser</td>
<td>Other income</td>
<td>Regulated business</td>
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<tr>
<td></td>
<td>Gross charges/Consultancy charges</td>
<td>(reg activities) revenue</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Regulated mortgage contracts, of which:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Second (or subsequent) charge</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Non-investment insurance</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>3</td>
<td>Retail investment products</td>
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<td></td>
<td></td>
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<tr>
<td>4</td>
<td>TOTAL</td>
<td></td>
<td></td>
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</table>

#### B2: Other P&L

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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<tbody>
<tr>
<td>5</td>
<td>Income from other regulated activities</td>
</tr>
<tr>
<td>6</td>
<td>Other Revenue (income from non-regulated activities)</td>
</tr>
</tbody>
</table>

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>7</td>
<td>TOTAL REVENUE</td>
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<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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</tr>
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<tbody>
<tr>
<td>8</td>
<td>TOTAL EXPENDITURE</td>
</tr>
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</table>

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>Profit/(Loss) on ordinary activities before taxation</td>
</tr>
<tr>
<td>10</td>
<td>Profit/(Loss) on extraordinary activities before taxation</td>
</tr>
<tr>
<td>11</td>
<td>Taxation</td>
</tr>
<tr>
<td>12</td>
<td>Profit/(Loss) for the period before dividends and appropriations</td>
</tr>
<tr>
<td>13</td>
<td>Dividends and other appropriations</td>
</tr>
<tr>
<td>14</td>
<td>Retained Profit</td>
</tr>
</tbody>
</table>
### SECTION G: Training and Competence

#### Special Instructions

<table>
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<tr>
<th></th>
<th>Advising on non-investment insurance (retail customers)</th>
<th>Advising on retail investment products</th>
<th>Advising on second (and subsequent) charge mortgages</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total number of all staff</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Of which:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Number of staff that give advice</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Number of staff that give advice (Full-time equivalent)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Number of staff that supervise others to give advice</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Number of advisers that have been assessed as competent</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Number of advisers that have passed approved examinations</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Number of advisers that have left since the last reporting date</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### What types of advice were provided?

<table>
<thead>
<tr>
<th>Type</th>
<th>Mortgage</th>
<th>Insurance</th>
<th>Investment Products</th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td>Independent</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Independent (whole of market plus option of fee-only)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Whole of market (without fee-only option)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Restricted / Multi-tie (the products of a limited number of providers)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Restricted / Single-tie (the products of one provider)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>16</td>
<td>Restricted (limited types of products)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### Clawed back commission (retail investment firms only)

<table>
<thead>
<tr>
<th>Type</th>
<th>Number</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>13</td>
<td></td>
<td></td>
</tr>
<tr>
<td>14</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Section D: Capital Resources

(i) Section D1 covers the appropriate capital resources and connected requirements in MIPRU chapter 4 for firms carrying on home finance mediation activity (save for firms carrying on home finance mediation activities exclusively in relation to second charge regulated mortgage contracts), and/or insurance mediation activity relating to non-investment insurance contracts (the requirements have to be completed for all applicable categories).

Section E: guide for completion of individual fields

Part 2

PII basic information

| Limit of indemnity | You should record here the indemnity limits on the firm's PII policy or policies, both in relation to single claims and in aggregate. Those firms subject to the Mortgage Credit Directive (MCD) (see MIPRU 3.2.9AR) or the Insurance Mediation Directive (IMD) requirements should state their limit in Euros; those that are not subject to the MCD or IMD should select 'Sterling' from the drop-down list. Insurance intermediaries, see MIPRU 3.2.7R and select either 'Euros' or 'Sterling' as applicable. Home finance intermediaries that are not MCD credit intermediaries should state their limit in Sterling (see MIPRU 3.2.9R). |

Insert the following new form, SUP 16 Annex 19AAR, after SUP 16 Annex 19AR. The text is not underlined.
### A(3)a BALANCE SHEET (SECOND CHARGE) (£000s)

<table>
<thead>
<tr>
<th>A3a</th>
<th>Analysis of loans to customers</th>
</tr>
</thead>
<tbody>
<tr>
<td>A3a.1</td>
<td>Residential loans to individuals, of which</td>
</tr>
<tr>
<td>A3a.2</td>
<td>Second (or subsequent) charge</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A3a.1</th>
<th>A3a.2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential loans to individuals, of which</td>
<td>Second (or subsequent) charge</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>c1</th>
<th>c2</th>
<th>c3</th>
<th>c4</th>
<th>c5</th>
<th>c6</th>
<th>c7</th>
</tr>
</thead>
<tbody>
<tr>
<td>------------------------</td>
<td>-----------------------</td>
<td>----------------</td>
<td>-------------</td>
<td>--------------</td>
<td>----------------</td>
<td>-------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### D(1)a  SECOND CHARGE LENDING: Business flows & rates

<table>
<thead>
<tr>
<th></th>
<th>c1</th>
<th>c2</th>
<th>c3</th>
<th>c4</th>
<th>c5</th>
<th>c6</th>
<th>c7</th>
<th>c8</th>
<th>c9</th>
<th>c10</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Balance at end of previous quarter</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Advances made in quarter</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Repayment of principal</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Write offs in quarter</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Other debits/credits and transfers (net)</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Balance at end of quarter</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Of which:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Loans excluding overdrafts</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Overdrafts</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aggregate of credit limits</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### D1a  Loans: Advances/ Repayments

<p>| | | | | | | | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential loans to individuals, of which</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Second (or subsequent) charge</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### D2a  Loans: Book movements

<p>| | | | | | | | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential loans to individuals, of which</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Second (or subsequent) charge</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### D3a  Loans: Interest rates

<table>
<thead>
<tr>
<th></th>
<th>(£000's)</th>
<th>(£000's)</th>
<th>(£000's)</th>
<th>(£000's)</th>
<th>(£000's)</th>
<th>(£000's)</th>
<th>%</th>
<th>%</th>
<th>%</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total book</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Second (or subsequent) charge</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### D4a  Loans: Commitments

<table>
<thead>
<tr>
<th></th>
<th>c1</th>
<th>c2</th>
<th>c3</th>
<th>c4</th>
<th>c5</th>
<th>c6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential loans to individuals, of which</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Second (or subsequent) charge</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a) New loan</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b) Remortgage</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>d) Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
E(1)a  SECOND CHARGE LOANS TO INDIVIDUALS: Income Multiple & LTV

<table>
<thead>
<tr>
<th>Gross advances in quarter : (amount) by LTV</th>
<th>E1a</th>
<th>E2a</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;= 75%</td>
<td>c1</td>
<td>c1</td>
</tr>
<tr>
<td>Over 75% &lt;= 90%</td>
<td>c2</td>
<td>c2</td>
</tr>
<tr>
<td>Over 90% &lt;= 95%</td>
<td>c3</td>
<td>c3</td>
</tr>
<tr>
<td>Over 95%</td>
<td>c4</td>
<td>c4</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Second (or subsequent) charge mortgages</th>
<th>E1a</th>
<th>E2a</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 2.50</td>
<td>E1a.1</td>
<td>E2a.1</td>
</tr>
<tr>
<td>2.50 &lt; 3.00</td>
<td>E1a.2</td>
<td>E2a.2</td>
</tr>
<tr>
<td>3.00 &lt; 3.50</td>
<td>E1a.3</td>
<td>E2a.3</td>
</tr>
<tr>
<td>3.50 &lt; 4.00</td>
<td>E1a.4</td>
<td>E2a.4</td>
</tr>
<tr>
<td>4.00 or over</td>
<td>E1a.5</td>
<td>E2a.5</td>
</tr>
<tr>
<td>Other</td>
<td>E1a.6</td>
<td>E2a.6</td>
</tr>
<tr>
<td>TOTAL second (or subsequent) charge</td>
<td>E1a.7</td>
<td>E2a.7</td>
</tr>
<tr>
<td>of which: Not evidenced</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Gross advances in quarter : (amount) by LTV

| <= 75%                                    | c1   | c1   |
| Over 75% <= 90%                           | c2   | c2   |
| Over 90% <= 95%                           | c3   | c3   |
| Over 95%                                  | c4   | c4   |

<table>
<thead>
<tr>
<th>Second (or subsequent) charge mortgages</th>
<th>E2a.1</th>
<th>E2a.1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 2.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.00 &lt; 2.50</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.50 &lt; 2.75</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.75 &lt; 3.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.00 or over</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL second (or subsequent) charge</td>
<td></td>
<td></td>
</tr>
<tr>
<td>of which: Not evidenced</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## E(2)a SECOND CHARGE LOANS TO INDIVIDUALS: Nature of loan and purpose

<table>
<thead>
<tr>
<th>Second (or subsequent) charge mortgages</th>
<th>Gross advances in quarter</th>
<th>Balances outstanding</th>
<th>Number</th>
<th>Amount</th>
<th>Number</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>c1</td>
<td>c2</td>
<td>c3</td>
<td>c4</td>
<td>c1</td>
<td>c2</td>
</tr>
</tbody>
</table>

**E3a By credit history**

- **E3a.1** Impaired credit history
- **E3a.2** Other

**E3a.3** TOTAL second (or subsequent) charge

**E4a By payment type**

- **E4a.1** Repayment (capital & interest)
- **E4a.2** Interest only
- **E4a.3** Combined
- **E4a.4** Other

**E4a.5** TOTAL second (or subsequent) charge

**E5a By drawing facility**

- **E5a.1** Loans with extra drawing facility:
  - (a) Loans including unused facility
  - (b) Unused facility
  - (c) Net loans (a - b)

- **E5a.2** Loans with no extra drawing facility

**E5a.3** TOTAL second (or subsequent) charge

**E6a By purpose**

- **House Purchase:**
- **E6a.1** Home improvement
- **E6a.2** Debt consolidation
- **E6a.3** Home improvement and debt consolidation
- **E6a.4** Other

**E6a.5** TOTAL second (or subsequent) charge
### F(1)a  SECOND CHARGE LENDING: Arrears analysis (£000s)

<table>
<thead>
<tr>
<th>Arrears categorisation</th>
<th>Cases entering higher (ie more serious) arrears band in quarter</th>
<th>Position on all arrears cases at end of quarter</th>
<th>Performance of current arrears cases during the quarter</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>Amount of arrears</td>
<td>Balance outstanding</td>
</tr>
<tr>
<td>F1a</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>F1a.1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>F1a.2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>F1a.3</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>F1a.4</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>F1a.5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>F1a.6</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>F1a.7</td>
<td>TOTAL</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### F(2)a  LENDING: Arrears analysis (£000s)

<table>
<thead>
<tr>
<th>Arrears management</th>
<th>Those cases no longer reported (ie not included in F1a)</th>
<th>Capitalisation of arrears cases in quarter</th>
<th>Arrears cases reported in F1a</th>
<th>Number of cases for which there is in place:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Possession sales during quarter</td>
<td>Number</td>
<td>Amount of arrears</td>
<td>Balance outstanding</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Balance outstanding</td>
<td></td>
<td></td>
</tr>
<tr>
<td>F5a.1</td>
<td>Residential loans to individuals, of which</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Second (or subsequent) charge</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### SECOND CHARGE MORTGAGE ADMINISTRATION: Arrears analysis (£000s)

<table>
<thead>
<tr>
<th>Arrears categorisation</th>
<th>Cases entering higher (ie more serious) arrears band in quarter</th>
<th>Position on all arrears cases at end of quarter</th>
<th>Performance of current arrears cases during the quarter</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>Amount of arrears</td>
<td>Balance outstanding</td>
</tr>
<tr>
<td>H1a</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>H1a.1</td>
<td>1.5 &lt; 2.5 %</td>
<td></td>
<td></td>
</tr>
<tr>
<td>H1a.2</td>
<td>2.5 &lt; 5 %</td>
<td></td>
<td></td>
</tr>
<tr>
<td>H1a.3</td>
<td>5.0 &lt; 7.5 %</td>
<td></td>
<td></td>
</tr>
<tr>
<td>H1a.4</td>
<td>7.5 &lt; 10 %</td>
<td></td>
<td></td>
</tr>
<tr>
<td>H1a.5</td>
<td>10% or more</td>
<td></td>
<td></td>
</tr>
<tr>
<td>H1a.6</td>
<td>In possession</td>
<td></td>
<td></td>
</tr>
<tr>
<td>H1a.7</td>
<td>TOTAL</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### MORTGAGE ADMINISTRATION: Arrears analysis (£000s)

<table>
<thead>
<tr>
<th>Arrears categorisation</th>
<th>Arrears management</th>
<th>Possession sales during quarter</th>
<th>Capitalisation of arrears cases in quarter</th>
<th>Number of cases for which there is in place:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Those cases no longer reported (ie not included in H1 to H3.7)</td>
<td>Arrears cases reported in H1 to H3.7 at end quarter</td>
<td>Number</td>
<td>Amount of arrears</td>
</tr>
<tr>
<td></td>
<td>Possession sales during quarter</td>
<td>Capitlisation of arrears cases in quarter</td>
<td>Number</td>
<td>Amount of arrears</td>
</tr>
</tbody>
</table>
16 Annex 19BG  Notes for Completion of the Mortgage Lenders & Administrators Return (‘MLAR’)

... 

1. Introduction

This section covers a number of points that have relevance across the return generally:

... 

- Loans made before 31 October 2004
- Second charge regulated mortgage contracts

... 

2. Overview of reporting requirements

... 

Because the MLAR is activity based, not all sections are applicable to all types of home finance activity firm. The applicability of each section is explained in the table below:

<table>
<thead>
<tr>
<th>Section</th>
<th>Applicability</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>A3(a): Analysis of second charge loans to customers</td>
<td>Applies to all home finance activity firms in respect of second charge regulated mortgage contracts.</td>
</tr>
<tr>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>C: Capital</td>
<td>Applies to all home finance activity firms except:</td>
</tr>
<tr>
<td></td>
<td>...</td>
</tr>
<tr>
<td></td>
<td>- A firm which is a solo-consolidated subsidiary of an authorised credit institution</td>
</tr>
<tr>
<td></td>
<td>- A firm which exclusively carries on home finance activities in relation to second charge regulated mortgage contracts, as set out in SUP 16.12.18BR (note 4).</td>
</tr>
<tr>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>D(a): Second charge business flow and rates</td>
<td>Applies to all home finance providing activity firms in respect of second charge regulated mortgage contracts.</td>
</tr>
</tbody>
</table>
### E: Residential lending to individuals: new business profile

...  

#### E1(a) and E2(a):

Second charge lending to individuals

Applies to all **home finance providing activity firms** in respect of **second charge regulated mortgage contracts**.

### F: Lending: Arrears Analysis

...  

#### F(a): Second charge lending – arrears analysis

Applies to all **home finance providing activity firms** in respect of **second charge regulated mortgage contracts**.

...  

### H: Mortgage Administration: Arrears analysis

...  

#### H(a): Second charge mortgage administration – arrears analysis

Applies to all **firms** with permission to undertake **administering a home finance transaction**, in respect of **second charge regulated mortgage contracts**.

...  

### L: Credit Risk

Applies to a **firm** that meets the conditions of SUP 16.12.18BR (note 2 and 4).

### M: Liquidity

Applies to a **firm** that meets the conditions of SUP 16.12.18BR (note 3 and 4).

...  

### 4. Regulated mortgage contracts and the wider mortgage market

...  

#### (ii) Residential loans to individuals

...  

Examples of **non-regulated mortgage contracts** which fall under the wider category of residential loans to individuals include: buy-to-let loans and other types of loan where the property is not for use by the borrower (or qualifying dependants); and residential loans to individuals where the lender does not have a first charge. In the case where a lender takes a first and a second charge over the same residential property (for different purposes) we consider that generally the loan secured by the
first charge will be a regulated mortgage contract, but that the loan secured by the second charge will invariably not and should be reported as non-regulated.

Pending the UK implementation of the Mortgage Credit Directive, even though loans secured by a second or subsequent charge on residential property may potentially be regulated credit agreements, firms completing the MLAR in the period after 1 April 2014 should continue to include second charge mortgage business as business falling within non-regulated mortgage contracts.

It is important, therefore, to separate this category from all other forms of secured lending.

…

(iv) Regulated mortgage contract

This is defined in the Handbook as follows:

(a) (in relation to a contract) (in accordance with article 61(3) of the Regulated Activities Order) a contract which, at the time it was entered into, meets the following conditions:

…

(ii) the obligation of the borrower to repay is secured by a first legal mortgage on land (other than timeshare accommodation) in the United Kingdom EEA, at least 40% of which is used, or is intended to be used, for credit provided to an individual, as or in connection with a dwelling by the borrower or (in the case of credit provided to trustees), as or in connection with a dwelling by a related person by an individual who is a beneficiary of the trust, or by a person who is in relation to the borrower or (in the case of credit provided to trustees) a beneficiary of the trust:

(A) that person’s spouse; or

(B) a person (whether or not of the opposite sex) whose relationship with that person has the characteristics of the relationship between husband and wife; or

(C) that person’s parent, brother, sister, child, grandparent or grandchild.

…

This means that in relation to a regulated mortgage contract, the following conditions must all be satisfied:

• …

• the lender must take a first legal mortgage over UK EEA property; and
• the property must be at least 40% occupied by the borrower or his immediate family as a dwelling.

The definition of a regulated mortgage contract means that many kinds of loan are caught by regulation, not just loans for house purchase. For example, it includes a significant amount of short-term first charge lending. …

(v) Second charge regulated mortgage contracts

A second charge regulated mortgage contract is defined in the Handbook as a regulated mortgage contract which is not a first charge legal mortgage. Therefore, it includes second and subsequent charge mortgages.

Data which is provided in relation to a second charge regulated mortgage contract in A3(a), D(a), E(1)(a), E(2)(a), F(a), or H(a) in SUP 16 Annex 19AAR will also need to be provided as part of the data items in A3, D, E, F or H, as the case may be, in SUP 16 Annex 19AR.

The guidance on how to submit the data items in A3, D, E, F or H of SUP 16 Annex 19AR applies to A3(a), D(a), E(1)(a), E(2)(a), F(a) or H(a) of SUP 16 Annex 19AAR where the same terms are used in the corresponding parts of SUP 16 Annex 19AAR.

…

8. Loans made before 31 October 2004

This section does not apply to second charge regulated mortgage contracts.

(i) Classifying the ‘back book’

…

(ii) Specific treatment of residential loans to individuals

Any loans made before 31 October 2004, that otherwise satisfy the specific requirements of a regulated mortgage contract, should be reported as non-regulated loans in the various parts of the MLAR (since only those loans advanced after this date are required to be treated as a regulated mortgage contract for the purposes of MLAR reporting).

…

Section E: Residential Loans to individuals: New business profile

…

E1/2 By Income Multiple and LTV (Loan to Valuation ratio)

The amount to be included in the table is the gross advance, but its allocation to a specific cell is determined according to income multiple and LTV which are both
defined using the size of the loan (as defined below)

For second charge regulated mortgage contracts, the calculation of income multiples and LTVs are to also include the outstanding balance of the first charge regulated mortgage contract and any higher priority second charge regulated mortgage contracts.

16 Annex 21R Reporting Fields

2 SPECIFIC REPORTING FIELDS

(c) Mortgages

The following data reporting fields must be completed, where applicable for all relevant regulated mortgage contracts, except any second charge regulated mortgage contract that is entered into before 1 April 2017:

<table>
<thead>
<tr>
<th>Data reporting field</th>
<th>Code (where applicable)</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sales Data (report for all regulated mortgage contracts)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Type of mortgage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SE = secured overdraft</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SC = second charge regulated mortgage contract</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mortgage characteristics</td>
<td></td>
<td></td>
</tr>
<tr>
<td>OS = offset positive and/or negative balances</td>
<td></td>
<td></td>
</tr>
<tr>
<td>EL = a second charge regulated</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Performance Data (report for all regulated mortgage contracts)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>---------------------------------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>...</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Data reporting field</th>
<th>Code (where applicable)</th>
<th>Notes</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Affordability data</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Type of borrower</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
</tr>
<tr>
<td>Report ‘O’ for lifetime mortgages, and bridging loans and second charge regulated mortgage contracts that are not for remortgage purposes.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>The purpose of a second charge regulated mortgage contract or extra money withdrawn for remortgages</th>
</tr>
</thead>
<tbody>
<tr>
<td>H = home improvements</td>
</tr>
<tr>
<td>D = debt consolidation</td>
</tr>
<tr>
<td>O = other</td>
</tr>
<tr>
<td>Use codes to indicate the purpose(s) of the second charge regulated mortgage contract or the extra money withdrawn for first or second charge remortgages.</td>
</tr>
<tr>
<td>Report all that apply.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Were the MCOB 11.7 transitional arrangements used?</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
</tr>
<tr>
<td>Report where the transitional arrangements were used when entering into the mortgage as set out in MCOB 11.7.</td>
</tr>
</tbody>
</table>

Second charge regulated mortgage contracts must be reported as ‘N’.
Sales value achieved (for repossessions) ... ... ... 

Is the transaction a second charge mortgage? Yes No ... Report ‘Yes’ only where the mortgage is a second charge regulated mortgage contract and ‘No’ where the mortgage is a first charge regulated mortgage contract.

If the firm does not have second charge mortgages to report, the firm does not need to report against this field.

TP1 Transitional Provisions

TP1.10 Mortgage activities

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>SUP 16.11.5R(3), SUP 16.11.5AR and SUP 16 Annex 21R, section 2 (c) (sales data report and performance data report for mortgages)</td>
<td>R</td>
<td>When reporting sales data and performance data on regulated mortgage contracts, a firm should not include sales data and performance data on second charge regulated mortgage contracts.</td>
<td>21 March 2016 to 31 March 2017</td>
<td>21 March 2016</td>
</tr>
</tbody>
</table>
Annex F

Amendments to the Compensation sourcebook (COMP)

In this Annex, underlining indicates new text.

14 Participation by EEA Firms

14.1 Application and Purpose

…

14.1.2 R This chapter also applies to an incoming EEA firm which is a credit institution, or an MiFID investment firm (or both), an IMD insurance intermediary, a UCITS management company, an MCD mortgage credit intermediary or an AIFM

Purpose

14.1.3 G This chapter provides supplementary rules and guidance for an incoming EEA firm which is a credit institution, an IMD insurance intermediary, an MiFID investment firm, UCITS management company, an MCD mortgage credit intermediary or an AIFM….

14.1.4 G (1) An incoming EEA firm, which is a credit institution, an IMD insurance intermediary, an MCD mortgage credit intermediary or an MiFID investment firm is not a participant firm in relation to its passported activities unless it "tops-up" into the compensation scheme …

…

14.2 Obtaining top-up cover

…

14.2.3 G A notice under COMP 14.2.1R should include details confirming that the incoming EEA firm falls within a prescribed category. In summary:

(1) the firm must be:

…

(g) an MCD mortgage credit intermediary

…
TP 1 Transitional Provisions

1.1 Transitional Provisions Table

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>35</td>
<td>All the rules and guidance in COMP applicable to protected home finance mediation.</td>
<td>R</td>
<td>The compensation scheme does not provide cover for claims in respect of any mortgage mediation activity relating to a second charge regulated mortgage contract if: (1) the relevant person was in default before 21 March 2016; or (2) the basis for the claim arose before 21 March 2016.</td>
<td>From 21 March 2016 indefinitely</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>

...
Annex G

Amendments to the Professional Firms (PROF)

In this Annex, underlining indicates new text and striking through indicates deleted text.

5.3.8 G *MCOB* 1.2.10R provides that *MCOB* does not apply to an *authorised professional firm* with respect to its *non-mainstream regulated activities* except for *MCOB 2.2* (Clear, fair and not misleading communication) and *MCOB 3 3A* (Financial promotions and communications with customers).

...
Annex H

Amendments to the Perimeter Guidance Manual (PERG)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

2.5 Investments and activities: general

... 

Modification of certain exclusions as a result of MiFID, and the Insurance Mediation Directives and the Mortgage Credit Directive

2.5.3 G The application of certain of the exclusions considered in PERG 2.8 (Exclusions applicable to certain regulated activities) and PERG 2.9 (Regulated activities: exclusions applicable to certain circumstances) is modified in relation to persons who are subject to MiFID or the Insurance Mediation Directive MiFID, the Insurance Mediation Directive and the MCD. The reasons for this and the consequences of it are explained in PERG 2.5.4G as respects for MiFID, and PERG 5 (Insurance mediation activities), as respects for the Insurance Mediation Directive and PERG 4.10A for the MCD.

... 

2.6 Specified investments: a broad outline

... 

Rights under a regulated mortgage contract

2.6.27 G In accordance with article 61(3)(a) of the Regulated Activities Order, a regulated mortgage contract is a contract which, at the time it is entered into, satisfies the following conditions:

... 

(2) the obligation of the borrower to repay is secured by a first legal charge mortgage on land (other than timeshare accommodation) in the United Kingdom in the EEA; and

(3) at least 40% of that land is used, or is intended to be used, as or in connection with a dwelling by the borrower (or, where trustees are the borrower, by an individual who is a beneficiary of the trust) or by a related person.

Detailed guidance on this is set out in PERG 4.4 (Guidance on regulated activities connected with mortgages). However, generally, the definition of
regulated mortgage contract does not include certain loans to commercial borrowers, second charge loans by a credit union and second charge bridging loans (see PERG 4.4.1-AG).

2.7 Activities: a broad outline

2.7.7A arranging (bringing about) regulated mortgage contracts, which includes arranging for another person to vary the terms of a regulated mortgage contract entered into by him as borrower after 31 October 2004 (article 25A(1) and (2A));

2.7.16E Advising on regulated credit agreements for the acquisition of land

2.7.16F Under article 53DA of the Regulated Activities Order, advising a person ("P") is a regulated activity if:

(1) the advice is given to P in P’s capacity as a recipient of credit, or potential recipient of credit, under a regulated credit agreement;

(2) P intends to use the credit to acquire or retain property rights in land or in an existing or projected building; and

(3) the advice consists of the provision of personal recommendations to P in respect of one or more transactions relating to regulated credit agreements.

2.7.19FA The exclusion referred to in PERG 2.7.19FG will not be available to a firm that is an MCD firm (see PERG 4.10A (Activities regulated under the Mortgage Credit Directive)).

2.7.19GA The exclusion referred to in PERG 2.7.19GG will not be available to a firm that is an MCD firm (see PERG 4.10A (Activities regulated under the Mortgage Credit Directive)).
2.7.19J  

(2) the agreement is either: either secured on land or for credit which exceeds £60,260;

(a) secured on land; or

(b) for credit which exceeds £60,260 and

(i) for a purpose other than the renovation of residential property; or

(ii) to acquire or retain property rights in land or in an existing or projected building

2.7.19JA  

The exclusion referred to in PERG 2.7.19JG will not be available to a firm that is an MCD firm (see PERG 4.10A (Activities regulated under the Mortgage Credit Directive)).

2.8  

Exclusions applicable to particular regulated activities

2.8.6  

(1) those relating to arranging a particular transaction or a contract, agreement or plan variation (articles 25(1), 25A(1), 25A(2A), 25B(1), 25C(1), and 25E(1) of the Regulated Activities Order); and

2.8.6BA  

The exclusion referred to in PERG 2.8.6AG(4) will not be available to persons who, when carrying on an arranging activity, are MCD firms (see PERG 4.10A (Activities regulated under the Mortgage Credit Directive)).

2.8.12  

(4) advising on a home purchase plan; and

(5) advising on a regulated sale and rent back agreement; and

(6) advising on regulated credit agreements for the acquisition of land.
2.8.12A G Advice given by an unauthorised person in relation to a home finance transaction or advising on regulated credit agreements for the acquisition of land in the circumstances referred to in PERG 2.8.6AG(5)(a) or (b) (Arranging deals in investments and arranging a home finance transaction) is also excluded. In addition:

(1) the following exclusions apply in specified circumstances where a person is advising on investments, advising on regulated credit agreements for the acquisition of land or advising on a home finance transaction:

2.9 Regulated activities: exclusions applicable in certain circumstances

2.9.3 G ...

(7) advising on investments or, advising on regulated credit agreements for the acquisition of land or advising on a home finance transaction.

The exclusion is, however, disapplied where a person is carrying on insurance mediation or reinsurance mediation, reinsurance mediation or the person would be an MCD firm. This is due to article 4(4A) and 4(4B) of the Regulated Activities Order. Guidance on exclusions relevant to insurance mediation activities is in PERG 5 (Insurance mediation activities) and guidance on activities and exclusions relevant to the MCD is in PERG 4.10A (Activities regulated under the Mortgage Credit Directive).

2.9.5 G ...

(5) advising on investments or, advising on regulated credit agreements for the acquisition of land or advising on a home finance transaction.

... The exclusion is also disapplied for persons who, when carrying on the relevant regulated activity, are MiFID investment firms or third country investment firms (see PERG 2.5.4G to PERG 2.5.5G (Investment services...
The exclusion is also disapplied for persons who, when carrying on the relevant regulated activity, are MCD firms (see PERG 4.10A (Activities regulated under the Mortgage Credit Directive)).

2.9.23 G …

(20A) advising on regulated credit agreements for the acquisition of land;

…

2.9.24 G (1) Subject to (2), (3) and (3) (4), the exclusions apply, in relation to any activity carried on by a local authority.

…

(3) The exclusion relating to entering into a regulated credit agreement as lender and exercising, or having the right to exercise, the lender's rights and duties under a regulated credit agreement applies only in so far these activities are not carried on for the purpose of acquiring or retaining property rights in land or in an existing or projected building and relate to credit agreements of a kind to which the Consumer Credit Directive does not apply under article 2(2) of that Directive. In summary, these include credit agreements:

(a) which are secured by a legal or equitable mortgage on land;

(b) the purpose of which is to acquire or retain property rights in land or in an existing or prospective building;

…

(4) The exclusion relating to entering into a regulated credit agreement as lender and exercising, or having the right to exercise, the lender's rights and duties under a regulated credit agreement for activities that are carried on for the purpose of acquiring or retaining property rights in land or in an existing or projected building apply to local authorities and (in some cases) their subsidiaries only when the relevant credit agreement:

(a) is of a kind to which the Consumer Credit Directive does not apply under article 2(2) of that Directive, and

(b) meets one of the following conditions:

(i) it is an agreement listed in PERG 4.10A.5G;
(ii) it is a bridging loan described in PERG 4.13.6G; or

(iii) it is a restricted public loan described in PERG 4.13.7G.

... 2 Annex 2  G ...

2 Table

<table>
<thead>
<tr>
<th>Regulated home finance activity</th>
<th>regulated mortgage contract (article 88), except for (xa), see note 11 to table 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>(v) arranging (bringing about) regulated mortgage contracts (article 25A(1) and (2A))</td>
<td>...</td>
</tr>
<tr>
<td>(x) advising on regulated mortgage contracts (article 53A)</td>
<td>...</td>
</tr>
<tr>
<td>(xa) advising on regulated credit agreements for the acquisition of land (article 53DA)</td>
<td>...</td>
</tr>
</tbody>
</table>

3Table

| ... |
| Note 11: The specified investment in relation to which the regulated activity of advising on regulated credit agreements for the acquisition of land (article 53DA) may be carried on, is a regulated credit agreement which meets the description in PERG 2.7.16FG. |

4 Guidance on regulated activities connected with mortgages

4.2.3 G ...

(5) ...

(5A) if so, is the exclusion on which I am relying disapplied because the business is subject to the Mortgage Credit Directive (see PERG 4.10A (Activities regulated under the Mortgage Credit Directive))?
4.3.1 arranging (bringing about) regulated mortgage contracts (article 25A(1) and (2A) (Arranging regulated mortgage contracts));

4.3.5 Summary of which variant of the business test applies to the different regulated mortgage activities. This table belongs to PERG 4.3.4G.

<table>
<thead>
<tr>
<th>By way of business</th>
<th>Carrying on the business</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Arranging (bringing about) regulated mortgage contracts (article 25A(1)) and arranging (bringing about) mortgage contracts behalf of a lender (article 25A(2A))</td>
</tr>
</tbody>
</table>

4.4.1 the contract provides for the obligation of the borrower to repay to be secured by a first legal mortgage on land (other than timeshare accommodation) in the United Kingdom EEA; and

(3) at least 40% of that land is used, or is intended to be used, as or in connection with a dwelling by the borrower (or, where trustees are the borrower, by an individual who is a beneficiary of the trust) or by a related person.

PERG 4.4.2G to PERG 4.4.9G set This section sets out the FCA’s understanding of some key concepts contained in article 61(3)(a) …

4.4.1-A A contract is not a regulated mortgage contract if it is:

(1) a loan to a commercial borrower excluded under PERG 4.4.17G or PERG 4.4.21G; or

(2) a second charge loan by a credit union excluded under PERG 4.4.24G; or
(3) a second charge bridging loan excluded under PERG 4.4.27G.

Provision of credit

4.4.1A G …

(2) In the FCA’s view, an obligation to repay implies the existence, or the potential for the existence, of a debt owed by the individual to whom the financial accommodation is provided (the ‘borrower’) to the person who provides it (the ‘lender’). Consequently, for any facility under which any form of financial accommodation is being provided, the test is whether it allows for the possibility that the person providing the financial accommodation may be placed in a position where he becomes a creditor of the individual to whom he is providing it. An example of this would be the issue of a guarantee by a bank to a third party for an individual customer (such as a rent guarantee or a performance bond) where the guarantee is secured on a first legal charge over the customer’s residential property. In the FCA’s view, this would amount to a regulated mortgage contract as the customer would owe a debt to the bank in the event that the bank had to pay the third party under the guarantee.

…

4.4.2 G …

4.4.2A G (1) A loan to a trustee is caught, even if the trustee or the beneficiary is not an individual.

(2) Therefore, it is possible that a loan to a trustee acting for a large commercial company is a regulated mortgage contract.

(3) In practice, the exclusions for loans to commercial borrowers (in particular, see PERG 4.4.17G and PERG 4.4.21G) are likely to prevent such loans from being regulated mortgage contracts.

(4) If:

(a) the loan is made to a trustee;

(b) the trustee is a bare trustee or nominee; and

(c) the beneficiary of the trust is acting for commercial purposes;

it is likely that the trustee will also be acting for commercial purposes.

4.4.2B G A loan to a partnership may be a loan to an individual if the partnership is made up of real people (that is natural, as opposed to legal, persons).
Land in the United Kingdom 

4.4.5 G  The condition set out in PERG 4.4.1G(2) means that a regulated mortgage contract must be secured on land in the United Kingdom EEA...

Occupancy requirement

4.4.6 G  The condition set out in PERG 4.4.1G(3) means that loans secured on property which is entirely used for business purposes (such as an office block) cannot fall within the definition. However, loans secured on 'mixed use' property could be covered, provided that the borrower (or trust beneficiary, where the borrowers are trustees) or a 'related person' occupier uses at least 40% of the total of the land as or in connection with a dwelling. Loans secured on a six-floor property, half of which was occupied by the borrower a family as their home and half let out for business purposes would therefore satisfy the definition. (Article 61(4)(b) makes it clear that 'land', in the context of a multi-storey building, means the aggregate of the floor area of each of the storeys.)

4.4.6A G  The most obvious example of a regulated mortgage contract is a loan made to an individual to enable the individual to buy a home for themselves where the loan is secured on that home. However, there is no requirement that the borrower should occupy the property. There is a requirement that at least 40% of the land should be used as a house, but no requirement that it is the borrower who uses it as a house. So, for example:

(1) a loan may be a regulated mortgage contract if the property on which it is secured is to be occupied by the borrower’s relatives as their home; or

(2) a loan may be a regulated mortgage contract if the borrower does not occupy the property on which the loan is secured and instead intends to sell the property to a third party, with the mortgage remaining on the house until then.

(3) However, if the borrower is acting on a commercial basis, the loan in (2) may be excluded as a loan to a commercial borrower under the exclusions in PERG 4.4.17G or PERG 4.4.21G.

4.4.8 G  The requirement that at least 40% of the land area be used as or in connection with a dwelling means that 'buy to let' loans secured on the property to be let will usually be excluded. However, such loans will not be excluded if:

(4) the lessee is a 'related person' to the borrower. This will be the case even if the borrower subsequently takes possession of the property, as the conditions set out in PERG 4.4.1G(1) to PERG
4.4.1G(3) were not satisfied at the outset of the contract (see PERG 4.4.3G); or

(2) at the time the contract is entered into, the borrower has a real intention to use the land as, or in connection with, a dwelling (for example a member of the British Forces Posted Overseas who buys a property in the United Kingdom intending to live there on his return but which he lets out in the meantime). [deleted]

4.4.9  G 'Related person' is defined in article 61(4)(c) of the Regulated Activities Order as meaning the borrower's spouse, civil partner, parents, grandparents, siblings, children and grandchildren. An unmarried partner of the borrower whose relationship with the borrower has the characteristics of the relationship between a husband and wife is also included; this can include a person of the same sex as the borrower. Stepchildren, however, would seem to be excluded. [deleted]

4.4.11  G The definition of regulated mortgage contract also covers a variety of types of product. Apart from the normal mortgage loan for the purchase of property, the definition also includes other types of secured loan, such as secured overdraft facility, a bridging loan (although bridging loans described in PERG 4.4.27G are not regulated mortgage contracts), a secured credit card facility and regulated lifetime mortgage contracts under which the borrower (usually an older person) takes out a loan where repayment of the capital (and in some cases the interest) is not required until the property is sold, usually on the death of the borrower.

4.4.12  G A number of products, however, are excluded from the definition, such as:

Loans secured on commercial premises are not regulated mortgage contracts as the property will not be used as or in connection with a dwelling.

(1) loans secured by a second or subsequent charge (as the lender does not have a first charge); and

(2) loans secured on commercial premises (as the borrower will not be using the land as or in connection with a dwelling).

(3) [deleted]

Regulated mortgage contracts and contract variations

4.4.13  G The effect of the Regulated Activities Order is that mortgage contracts which are varied can fall into one of the following categories:

(1) a contract that was entered into before 31 October 2004, and that is subsequently varied on or after that date so that it satisfies the conditions set out in PERG 4.4.1G(1) to PERG 4.4.1G(3), will not be a regulated mortgage contract (because it was not a
4.4.14 G It is possible for more than one mortgage contract to be secured by the same (first) charge. The first contract might be entered into before 31 October 2004 (and therefore not be a regulated mortgage contract) and a second contract entered into on or after 31 October 2004 (and be a regulated mortgage contract). [deleted]

Type of security

4.4.15 G A loan may be a regulated mortgage contract whether it is secured by a first, second or subsequent mortgage.

4.4.16 G A mortgage has a wide meaning for the purpose of the definition of a regulated mortgage contract. It includes:

(1) a legal mortgage;

(2) equitable security;

(3) (in Scotland) a heritable security; and

(4) security commonly used in another EEA State for loans secured on residential property.

Exclusions for lending to commercial borrowers

4.4.17 G A contract is excluded from the definition of regulated mortgage contract if, at the time it is entered into, it meets the following conditions:

(1) it meets the conditions in PERG 4.4.1G(1) to (3); and

(2) less than 40% of the land secured by the mortgage is used, or intended to be used, as or in connection with a dwelling by the borrower or (for credit provided to trustees) by an individual who is a beneficiary of the trust, or by a related person; and

(3) the agreement is entered into by the borrower wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by the borrower.
4.4.18 G The Regulated Activities Order refers to this as an “investment property loan”.

4.4.19 G Under the Regulated Activities Order ‘related person’ means, in relation to the borrower or (for credit provided to trustees) a beneficiary of the trust:

1. that person’s spouse or civil partner;

2. a person (whether or not of the opposite sex) whose relationship with that person has the characteristics of the relationship between husband and wife; or

3. that person’s parent, brother, sister, child, grandparent or grandchild.

4.4.20 G (1) If less than 40% of the land secured by the mortgage is used, or intended to be used, as or in connection with a dwelling then the exclusion for loans to commercial borrowers described in PERG 4.4.17G is irrelevant, as the loan falls outside PERG 4.4.1G and so cannot be a regulated mortgage contract.

(2) The exclusion becomes relevant (if all the conditions in PERG 4.4.17G are met) if at least 40% of the land secured by the mortgage is used, or intended to be used, as or in connection with a dwelling by:

(a) someone other than the borrower; or

(b) the borrower and someone else, if the percentage used by the borrower as residential property is less than 40%.

(3) Therefore, the exclusion would, for example, cover a loan secured on residential property where a commercial borrower is not going to occupy any of the property but is going to sell it to a third party.

4.4.21 G There is also an exclusion for loans to commercial borrowers secured by a second or subsequent security. A contract is excluded from the definition of regulated mortgage contract if, at the time it is entered into, it meets the following conditions:

1. it meets the conditions in PERG 4.4.1G(1) to (3); and

2. the lender provides the borrower with credit exceeding £25,000; and

3. the mortgage ranks in priority behind one or more other mortgages affecting the land in question; and

4. the agreement is entered into by the borrower wholly or predominantly for the purposes of a business carried on, or
intended to be carried on, by the borrower.

4.4.22 G The Regulated Activities Order refers to this as a “second charge business loan”.

4.4.23 G (1) There is no exclusion from the £25,000 floor in PERG 4.4.21G(2) for an item entering into the total charge for credit.

          (2) Giving time for payment of interest if the borrower gets into difficulty, does not affect the calculation of the sum as the definition relates to the time at which the contract is entered into.

          (3) However, for example, if the credit includes a broker fee, that fee may be excluded in the calculation of the floor.

Exclusion for lending by credit unions

4.4.24 G A contract is excluded from the definition of regulated mortgage contract if, at the time it is entered into, it meets the following conditions:

          (1) it meets the conditions in PERG 4.4.1G(1) to (3); and

          (2) the lender is a credit union; and

          (3) it is a borrower-lender agreement; and

          (4) the mortgage ranks in priority behind one or more other mortgages affecting the land in question; and

          (5) the rate of the total charge for credit does not exceed 42.6 per cent.

4.4.25 G The Regulated Activities Order refers to this as a “limited interest second charge credit union loan”.

4.4.26 G The exclusion in PERG 4.4.24G only applies if the loan meets the following conditions:

          (1) the borrower receives timely information on the main features, risks and costs of the contract at the pre-contractual stage; and

          (2) any advertising of the contract is fair, clear and not misleading.

Exclusion for second charge bridging loans

4.4.27 G A contract is excluded from the definition of regulated mortgage contract if, at the time it is entered into, it meets the following conditions:

          (1) it meets the conditions in PERG 4.4.1G(1) to (3); and

          (2) it is a borrower-lender-supplier agreement financing the purchase of land; and
(3) it is used by the borrower as a temporary financing solution while changing to another financial arrangement for the land secured by the mortgage; and

(4) the mortgage ranks in priority behind one or more other mortgages affecting the land in question; and

(5) the number of payments to be made by the borrower under the contract is not more than four.

4.4.28 G The Regulated Activities Order refers to this as a “limited payment second charge bridging loan”.

Certificate that borrower is not a consumer

4.4.29 G The two exclusions for loans to commercial borrowers (PERG 4.4.17G and PERG 4.4.21G) depend on the borrower not being a consumer. For these purposes, if an agreement includes a declaration which:

(1) is made by the borrower; and

(2) includes:

(a) a statement that the agreement is entered into by the borrower wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by the borrower;

(b) a statement that the borrower understands that the borrower will not have the benefit of the protection and remedies that would be available to the borrower under the Act if the agreement were a regulated mortgage contract under the Act; and

(c) a statement that the borrower is aware that if the borrower is in any doubts as to the consequences of the agreement not being regulated by the Act, then the borrower should seek independent legal advice;

the agreement is to be presumed to have been entered into by the borrower wholly or predominantly for the purposes specified in (2)(a).

4.4.30 G However, the presumption in PERG 4.4.29G does not apply if, when the agreement is entered into:

(1) the lender (or, if there is more than one lender, any of the lenders); or

(2) any person who has acted on behalf of the lender (or, if there is more than one lender, any of the lenders) in connection with the entering into of the agreement.
knows, or has reasonable cause to suspect, that the agreement is not entered into by the borrower wholly or predominantly for the purposes of a business carried on, or intended to be carried on, by the borrower.

Insert the following new chapter, PERG 4.4A, after PERG 4.4. The text is not underlined.

4.4A Transitional issues

Regulated mortgage contracts entered into before 2004: variations

4.4A.1 G There are special provisions for mortgages entered into before 31 October 2004.

4.4A.2 G The effect of the Regulated Activities Order is that mortgage contracts which are varied can fall into one of the following categories:

1. a contract that was entered into before 31 October 2004, and that is subsequently varied on or after that date so that it satisfies the conditions set out in:
   (a) PERG 4.4.1G(1) to PERG 4.4.1G(3); or
   (b) the old versions of those paragraphs as referred to in PERG 4.4A.5G;

   will not be a regulated mortgage contract (because it was not a regulated mortgage contract at the time it was entered into);

2. a contract that was originally entered into before 31 October 2004, but is subsequently changed on or after that date such that a new contract is entered into, will be a regulated mortgage contract (provided that it meets the definition in the Regulated Activities Order); and

3. a regulated mortgage contract that was originally entered into on or after 31 October 2004 and which is subsequently varied by, for example, making a further advance, will remain a regulated mortgage contract.

4.4A.3 G It is possible for more than one mortgage contract to be secured by the same (first) charge. The first contract might be entered into before 31 October 2004 (and, therefore, not be a regulated mortgage contract) and a second contract entered into on or after 31 October 2004 (and be a regulated mortgage contract).

Regulated mortgage contracts entered into before 2016
4.4A.4 G In some cases (described in this section), the definition applicable to a contract that existed before 21 March 2016 is different from the one in PERG 4.4 (What is a regulated mortgage contract?).

4.4A.5 G The definition in PERG 4.4 applies to a contract which, immediately before 21 March 2016, met the following conditions:

(1) it was a regulated credit agreement (under the definition existing at that time); and

(2) it provided for the obligation of the borrower to repay to be secured by a mortgage on land that ranked in priority behind one or more other mortgages affecting the land in question.

4.4A.6 G Except for the contracts mentioned in PERG 4.4A.5G, the definition applicable to pre-2016 contracts is the version in force on 20 March 2016.

4.4A.7 G The old definition referred to in PERG 4.4A.6G can be found in historical versions of PERG, which can be found on the FCA’s website along with the current version.

4.4A.8 G In summary, the old definition of a regulated mortgage contract was a contract that, at the time it was entered into, met the following conditions:

(1) the contract was one under which a person (“the lender”) provided credit to an individual or to trustees (“the borrower”);

(2) the contract provided for the obligation of the borrower to repay to be secured by a first legal mortgage on land (other than timeshare accommodation) in the United Kingdom;

(3) at least 40% of that land was used, or was intended to be used, as or in connection with a dwelling by the borrower or (in the case of credit provided to trustees) by an individual who was a beneficiary of the trust, or by a related person.

4.4A.9 G As is still the case, the old definition excluded regulated home purchase plans.

4.4A.10 G In practice, there may not be many contracts entered into prior to 21 March 2016 that are not regulated mortgage contracts but which would be regulated mortgage contracts if they had been entered into after 21 March 2016. Examples include:

(1) a loan secured by a first-ranking mortgage on land elsewhere in the EEA;

(2) a loan secured by first-ranking equitable security;

(3) a loan that was not a regulated credit agreement and is secured by second-ranking security.
4.5 Arranging regulated mortgage contracts

Definition of the regulated activities involving arranging

4.5.1 G …

(1) making arrangements for another person to:

(a) for another person to enter into a regulated mortgage contract as borrower; or

(b) vary the terms of a regulated mortgage contract entered into by him as borrower on or after 31 October 2004 in such a way as to vary his obligations under the contract; and to enter into a regulated mortgage contract with a borrower on behalf of a lender; or

(c) for another person to vary the terms of a regulated mortgage contract entered into by him as borrower on or after 31 October 2004 in such a way as to vary his obligations under the contract; and

(2) …

4.5.2 G The first activity (article 25A(1) and (2A)) is referred to in this guidance as arranging (bringing about) regulated mortgage contracts. Various points arise:

…

(2) This activity is carried on only if the arrangements bring about, or would bring about a regulated mortgage contract. This is because of the exclusion in article 26 (see PERG 4.5.4G). As explained in PERG 4.5.4AG, this exclusion does not apply to the activity in PERG 4.5.1G(1)(b).

…

4.5.3 G The second activity (article 25A(2)) is referred to in this guidance as making arrangements with a view to regulated mortgage contracts. This activity is different from article 25A(1) and (2A) because ….

Exclusion: article 25A(1) arrangements not causing a deal

4.5.4 G …

4.5.4A G (1) Article 26 does not apply to the activity described in PERG 4.5.1G(1)(b).
(2) As the activity in PERG 4.5.1G(1)(b) covers a person that concludes a regulated mortgage contract with a borrower on behalf of a lender, in many cases the activity will only apply if the arrangements bring about, or would bring about, a regulated mortgage contract. Therefore, in many cases the fact that article 26 does not apply will make no difference.

(3) However, if a person enters into a regulated mortgage contract on behalf of a lender, that person carries out the regulated activity described in PERG 4.5.1G(1)(b). That activity is not excluded just because most of the work is done by another.

4.5.7 G

4.5.7A G Article 28A does not apply to the activity described in PERG 4.5.1G(1)(b). This is because the activity described in PERG 4.5.1G(1)(b) is defined so that it cannot apply to an activity carried out by the lender. There is, therefore, no need to apply article 28A.

Exclusion: article 25A(1) and (2) arrangements with or through authorised persons

4.5.8 G An unauthorised person who makes arrangements for, or with a view to, a regulated mortgage contract between a borrower and an authorised person, is excluded from article 25A(1) and (2), 25A(2A) and by article 29 of the Regulated Activities Order (Arranging deals with or through authorised persons) if specified conditions as to advice and remuneration are satisfied. …

4.5.8A G Article 29 does not apply if applying the exclusion would take activities outside article 25A that should be regulated under the MCD. Please see PERG 4.10A (Activities regulated under the Mortgage Credit Directive) for more details.

4.6.2 G … amounts to entering into a new regulated mortgage contract (see PERG 4.4.4G and PERG 4.4.13G(2)). …

4.7.2 G The Regulated Activities Order contains an exclusion which has the effect of preventing certain activities of trustees, nominees and personal
representatives from amounting to *entering into a regulated mortgage contract*. There is also an exclusion for *local authorities* and their wholly-owned subsidiaries. …

…

4.8.2 G … The definition also does not include administration of a mortgage which was entered into before 31 October 2004. See, however, *PERG 4.4.4G* and *PERG 4.4.13G* for a discussion of …

…

4.8.8 G The *Regulated Activities Order* contains an exclusion which has the effect of preventing certain activities of trustees, nominees and personal representatives from amounting to *entering into a regulated mortgage contract*. There is also an exclusion for *local authorities* and their wholly-owned subsidiaries. …

…

4.10 Exclusions applying to more than one regulated activity

…

4.10.4 G …

4.10.4A G (1) The exclusion in article 67 of the *Regulated Activities Order* (Activities carried on in the course of a profession or non-investment business) does not apply if applying the exclusion would take activities covered by the *MCD* outside the definition of certain *regulated mortgage activities*.

(2) Please see *PERG 4.10A* (Activities regulated under the Mortgage Credit Directive) for more details.

…

4.10.8 …

4.10.8A G (1) The exclusion in article 66 of the *Regulated Activities Order* (Trustees, nominees and personal representatives) does not apply if applying the exclusion would take activities covered by the *MCD* outside the definition of certain *regulated mortgage activities*.

(2) Please see *PERG 4.10A* (Activities regulated under the Mortgage Credit Directive) for more details.
There are exclusions that apply, in relation to each of the regulated mortgage activities if the person carrying on the activity is a local authority or a wholly owned subsidiary of a local authority. They can be found in article 72G of the Regulated Activities Order.

Insert the following new chapter, PERG 4.10A, after PERG 4.10. The text is all new and is not underlined.

4.10A Activities regulated under the Mortgage Credit Directive

General treatment for activities regulated under the Mortgage Credit Directive

4.10A.1 Article 4(4B) of the Regulated Activities Order says that certain exclusions in the Regulated Activities Order do not apply in cases covered by the MCD. This section explains the situations in which this applies.

4.10A.2 Article 4(4B) of the Regulated Activities Order says that where:

(1) a person is:

(a) a mortgage creditor (see PERG 4.10A.6G); or

(b) a credit intermediary (see PERG 4.10A.12G); or

(c) a person providing advisory services (see PERG 4.10A.20G);

under the MCD; and

(2) that person is (ignoring the exclusions in (3)) carrying on one of the following regulated activities:

(a) article 25A (arranging (bringing about) regulated mortgage contracts and making arrangements with a view to regulated mortgage contracts);

(b) article 53A (advising on regulated mortgage contracts); or

(c) article 61(1) (entering into a regulated mortgage contract as lender); and

(3) in acting as described in (1), that person is relying on one of the following exclusions to take it outside the regulated activities in (2):
(a) article 29 (Arranging deals with or through authorised persons);
(b) article 66 (Trustees, nominees and personal representatives); or
(c) article 67 (Activities carried on in the course of a profession or non-investment business);

then the result is that:

(4) the exclusions in (3) are switched off; and
(5) that person is treated as carrying on the regulated activity in (2) in question.

The meaning of mortgage intermediary

4.10A.3 G The Regulated Activities Order refers to credit intermediaries (PERG 4.10A.2G(1)(b)) and providers of advisory services (PERG 4.10A.2G(1)(c)) as mortgage intermediaries.

What mortgages are covered by the Mortgage Credit Directive?: General

4.10A.4 G Article 4(4B) of the Regulated Activities Order only applies if the regulated mortgage contract is covered by the MCD. A regulated mortgage contract is covered if:

(1) the lender is acting in the course of his trade, business or profession; and
(2) the borrower is an individual; and
(3) the borrower is acting for purposes which are outside their trade, business or profession; and
(4) the regulated mortgage contract does not come within one of the exclusions summarised in PERG 4.10A.5G.

4.10A.5 G (1) This paragraph lists the regulated mortgage contracts outside the MCD.

(2) MCD exempt lifetime mortgages are excluded from the Mortgage Credit Directive. These are regulated mortgage contracts or article 3(1)(b) credit agreements where the creditor:

(a) contributes a lump sum, periodic payments or other forms of credit disbursement;
(b) contributes the sums in (a) in return for a sum deriving from the future sale of a residential property or a right
relating to residential property; and

(c) will not seek repayment of the capital until the occurrence of one or more specified life events of the consumer.

However, notwithstanding (c), the creditor may seek early repayment if the consumer breaches his contractual obligations and the breach allows the creditor to terminate the credit agreement.

Only lifetime mortgages that do not meet these conditions fall within the Mortgage Credit Directive. Normally, these will be mortgages where partial repayment of the capital is, or may become, due. These are known as MCD lifetime mortgages.

(3) Agreements where:

(a) the credit is granted by an employer to his employees;

(b) the employer does so as a secondary activity; and

(c) such a credit agreement is offered:

(i) free of interest; or

(ii) at an APRC lower than those prevailing on the market and not offered to the public generally;

are excluded from the MCD.

(4) Agreements where the credit is granted free of interest and without any other charges except those that recover costs directly related to the securing of the credit are excluded from the MCD.

(5) An MCD exempt overdraft loan is excluded from the MCD.

(6) Agreements which are the outcome of a settlement reached in court or before another statutory authority are excluded from the MCD.

(7) An MCD exempt bridging loan is excluded from the MCD.

(8) An MCD exempt credit union loan is excluded from the MCD.

What mortgages are covered by the Mortgage Credit Directive?: Borrower as consumer

What effect does article 4(4B) have on lenders?

4.10A.6 G To work out the effect of article 4(4B) of the Regulated Activities Order (see PERG 4.10A.2G) on the regulated activity of entering into a regulated mortgage contract as lender, it is necessary to look at what a
mortgage creditor means.

4.10A.7 G In relation to a regulated mortgage contract, mortgage creditor means a person who grants or promises to grant credit falling within the scope of the definition of a regulated mortgage contract in the course of its trade, business or profession.

4.10A.8 G Therefore, article 4(4B) means that the Regulated Activities Order exclusions in PERG 4.10A.2G(3) do not apply to entering into a regulated mortgage contract as lender unless:

(1) the regulated mortgage contract falls outside the MCD (see PERG 4.10A.5G); or

(2) the lender is not acting in the course of his trade, business or profession.

The effect of article 4(4B) on arrangers: The basics

4.10A.9 G Article 4(4B) of the Regulated Activities Order (see PERG 4.10A.2G) does not affect the regulated activity of making arrangements with a view to regulated mortgage contracts. This is because, in the FCA’s view, the activities covered by this regulated activity are not covered by the MCD.

4.10A.10 G Article 4(4B) of the Regulated Activities Order disapplies the Regulated Activities Order exclusions in PERG 4.10A.2G(3) for the regulated activity of arranging (bringing about) regulated mortgage contracts, but only in relation to the credit intermediary activities described in PERG 4.10A.12G.

4.10A.11 G To work out the effect of article 4(4B) of the Regulated Activities Order on the regulated activity of arranging (bringing about) regulated mortgage contracts, it is necessary to look at what a credit intermediary (as referred to in PERG 4.10A.2G(1)(b)) means.

The effect of article 4(4B) on arrangers: What does credit intermediary mean?: General

4.10A.12 G A credit intermediary means a person who:

(1) is not acting as a creditor or notary; and

(2) is not merely introducing, either directly or indirectly, a consumer to a creditor or credit intermediary; and

(3) carries out the following activities:

(a) presenting or offering regulated mortgage contracts to consumers;

(b) assisting consumers by undertaking preparatory work or other pre-contractual administration in respect of
regulated mortgage contracts, other than as referred to in (a); or

(c) concluding regulated mortgage contracts with consumers on behalf of the creditor.

(4) carries out those activities in the course of his trade, business or profession, for remuneration;

4.10A.13 G The remuneration in PERG 4.10A.19G may take a pecuniary form or any other agreed form of financial consideration.

4.10A.14 G (1) A person who merely introduces or refers a consumer to a creditor or credit intermediary does not act as a credit intermediary.

(2) An example of a person who merely introduces is someone who just indicates to a potential borrower:

(a) the existence of a creditor or credit intermediary; or

(b) a type of product provided by a particular creditor or credit intermediary;

without further advertising or engaging in the presentation, offering, preparatory work or conclusion of the regulated mortgage contract.

The effect of article 4(4B) on arrangers: Conclusion about the effect on arranging (bringing about) regulated mortgage contracts

4.10A.15 G In the FCA’s view, credit intermediation under the MCD covers the same activities as the regulated activity of arranging (bringing about) regulated mortgage contracts, except that:

(1) credit intermediation only applies if the intermediary acts for remuneration; and

(2) the MCD does not cover the regulated mortgage contracts listed in PERG 4.10A.5G; and

(3) the MCD only applies to services provided to consumers;

(4) if the intermediary only acts for the creditor, the MCD intermediation activity is narrower, as described in PERG 4.10A.17G.

4.10A.16 G Except as described in PERG 4.10A.15G, the Regulated Activities Order exclusions in PERG 4.10A.2G(3) do not apply to the regulated activity of arranging (bringing about) regulated mortgage contracts.

The effect of article 4(4B) on arrangers: Remuneration under the MCD
PERG 5.4 (The business test for insurance mediation) has guidance on the meaning of remuneration in the Insurance Mediation Directive. That guidance is also applicable to the meaning of remuneration for the purpose of PERG 4.10A.12G.

Article 4(4B) is not relevant to an intermediary that carries on its activities by way of business (see PERG 4.3.3G to PERG 4.3.9G) but does not act for remuneration. The FCA does not expect this distinction to apply in practice.

The effect of article 4(4B) on arrangers: Acting for the creditor

(1) The MCD applies to credit intermediation activities performed for the creditor, as well as for the borrower.

(2) However, the activities carried out for the creditor are defined differently from the ones carried out for the borrower. They seem to be narrower. The activities are limited to concluding regulated mortgage contracts with consumers on behalf of the creditor.

(3) Just assisting the creditor by undertaking preparatory work or other pre-contractual administration is not enough on its own.

(4) The activity covers actually entering into the regulated mortgage contract on behalf of the creditor.

(5) The activity also covers activities that result in the lender entering into the regulated mortgage contracts if the role of the creditor and any person acting for the creditor is minimal.

(6) When deciding whether the intermediary is acting for the creditor alone, the FCA will not just look at the contractual position. In particular, the FCA will also look at whether a separate intermediary is acting for the borrower.

(7) The guidance in PERG 4.5.4AG (Guidance on making arrangements to enter into a regulated mortgage contract with a borrower on behalf of a lender) applies here too.

The effect of article 4(4B) on advisers

To work out the effect of article 4(4B) of the Regulated Activities Order (see PERG 4.10A.2G) on the regulated activity of advising on regulated mortgage contracts, it is necessary to look at what advisory services as referred to in PERG 4.10A.2G(1)(c) means.

Advisory services mean the provision of personal recommendations to a consumer in respect of one or more transactions relating to regulated mortgage contracts covered by the MCD.

Where advising on regulated mortgage contracts falls within the MCD,
the Regulated Activities Order exclusions in PERG 4.10A.2G(3) do not apply to this activity. Advisers should note that:

(1) if the adviser does not act for remuneration, the MCD does not apply;
(2) the MCD does not cover the regulated mortgage contracts listed in PERG 4.10A.5G;
(3) the MCD only applies to advisory services provided to consumers;
(4) the MCD only applies to personal recommendations.

4.10A.23  G  Giving personal recommendations is narrower than giving advice. The guidance on this point in relation to MiFID in Q18 to Q21 in PERG 13.3 (Investment Services and Activities) is relevant here.

4.10A.24  G  A firm that does not give personal recommendations is not affected by article 4(4B).

4.10A.25  G  A firm can provide advisory services even though it does not act as a credit intermediary.

The effect of article 4(4B) on professional firms

4.10A.26  G  Article 4(4B) does not apply to advising or arranging activities if:

(1) they are carried out on an incidental basis in the course of professional activity;
(2) that professional activity is regulated; and
(3) the rules governing that professional activity do not prohibit the carrying out, on an incidental basis, of credit intermediation activities.

4.10A.27  G  Work carried out by a professional firm which may reasonably be regarded as a necessary part of legal conveyancing services provided by that professional firm can still take advantage of the exclusion in article 67 (Activities carried on in the course of a profession or non-investment business).

4.10A.28  G  Article 4(4B) does not cut back the Part XX exemption.

Amend the following text as shown.

4.11  Link between activities and the United Kingdom
4.11.3 G A contract is only a regulated mortgage contract if the land is in the United Kingdom EEA (see PERG 4.4.5G (Land in the United Kingdom EEA)).

4.11.5 G (1) Section 418(2) refers to a case where a UK-based person carries on a regulated activity in another EEA State in the exercise of rights under a Single Market Directive. The only Single Market Directive Directives which are relevant to mortgages are the CRD and the MCD.

4.11.6 G (3) …

4.11.6A G The exclusion for overseas persons described in PERG 4.11.6G does not apply where the overseas person is a mortgage intermediary whose home Member State is the United Kingdom. A mortgage intermediary is defined in PERG 4.10A.3G.

4.11.9 G Simplified summary of the territorial scope of the regulated mortgage activities, to be read in conjunction with the rest of this section.

This table belongs to PERG 4.11.8G

<table>
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<th>Service provider carrying on</th>
<th>Individual borrower resident and located</th>
<th>in the UK</th>
<th>outside the UK</th>
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<td></td>
<td>Individual borrower resident and located</td>
<td>in the UK</td>
<td>outside the UK</td>
</tr>
<tr>
<td></td>
<td>Yes</td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>

208
<table>
<thead>
<tr>
<th>regulated activity from establishment:</th>
<th>outside the UK</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes = authorisation or exemption required</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No = authorisation or exemption not required</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Regulated activities other than advice**

<table>
<thead>
<tr>
<th>Location of establishment of service provider:</th>
<th>Location of land:</th>
<th>Individual borrower resident and located:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>UK or non-UK person:</strong> Establishment in the UK</td>
<td>in the UK</td>
<td>in another EEA State</td>
</tr>
<tr>
<td>land in the UK</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>land in another EEA State</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>UK person:</strong> Establishment in another EEA State or in a country outside the EEA</td>
<td>in the UK</td>
<td>in another EEA State</td>
</tr>
<tr>
<td>land in the UK</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>land in another EEA State (Note 1)</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td><strong>Non-UK person:</strong> Establishment in another EEA State or in a country outside the EEA</td>
<td>in the UK</td>
<td>in another EEA State</td>
</tr>
<tr>
<td>land in the UK</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>land in another EEA State</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

Yes = authorisation or exemption required
No = authorisation or exemption not required

Note 1: If the service provider is a UK firm operating from an office in another EEA State in the exercise of rights under a Single Market Directive, the activities will be treated as taking place in the United Kingdom and the firm will need to make sure that its permission covers the regulated mortgage activities it is carrying out. See PERG 4.11.5G(1).
The regulated activity of advice

<table>
<thead>
<tr>
<th>Location of establishment of service provider:</th>
<th>Location of land:</th>
<th>Individual borrower resident and located:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>UK or non-UK person:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Establishment in the UK</td>
<td></td>
<td></td>
</tr>
<tr>
<td>UK or non-UK person:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Establishment in the UK</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes = authorisation or exemption required</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No = authorisation or exemption not required</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Note 1: If the service provider is a UK firm operating from an office in another EEA State in the exercise of rights under a Single Market Directive, the activities will be treated as taking place in the United Kingdom and the firm will need to make sure that its permission covers the regulated mortgage activities it is carrying out. See PERG 4.11.5G(1).</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
418 of the Act means that the services are treated as being carried on in the United Kingdom. This factor is not covered further in the remainder of this section.

4.11.13 G When a person is arranging (bringing about) regulated mortgage contracts or making arrangements with a view to regulated mortgage contracts from overseas, the question of whether he will be carrying on regulated activities in the United Kingdom will depend on the relevant circumstances. In the FCA's view, factors to consider include:

1. the territorial limitation in the definition of regulated mortgage contract so that regulation only applies if the land is in the United Kingdom EEA;

... 

4.11.14 G In the FCA's view:

1. if the borrower is normally resident in the United Kingdom and the land is in the United Kingdom, the clear territorial limitation in the definition of regulated mortgage contract carries most weight in determining where regulation should apply; it is likely that the arranger will be carrying on regulated activities in the United Kingdom;

2. if the borrower is normally resident overseas, the arrangements are excluded by the overseas persons exclusion if the lender is an overseas person.

... 

4.11.17 G In the FCA's view, in circumstances other than those excluded by article 72(5D) of the Regulated Activities Order, the need for an overseas lender is likely to carry on the regulated activity of entering into regulated mortgage contracts in the United Kingdom to be authorised or to have an exemption will depend on the location of the land. This is because of:

1. the territorial limitation in the definition of regulated mortgage contract so that regulation applies only if the land is in the United Kingdom EEA;

2. the general principle and practice that contracts relating to land are usually governed by the law of the place where the land is situated; and

3. practical issues of conveyancing; a lender is likely to use the services of a solicitor lawyer or licensed conveyancer operating from the United Kingdom or the other EEA State in question, who enters into the regulated mortgage contract as agent for the lender in the United Kingdom or the other EEA State in question; and
In the FCA's view, in circumstances other than those excluded by article 72(5E) of the Regulated Activities Order, the need for an overseas administrator is likely to carry on the regulated activity of administering a regulated mortgage contract in the United Kingdom to be authorised or to have an exemption will depend on the location of the land. This is because:

(1) the territorial limitation in the definition of regulated mortgage contract means that regulation applies only if the land is in the United Kingdom EEA;

(2) when administrators notify borrowers resident in the United Kingdom or the other EEA State in question of matters pursuant to a regulated mortgage contract, such notification is likely to be carried on in the United Kingdom or the other EEA State in question;

(3) the steps involved in collecting or recovering payments will generally include giving notice to the borrower at his UK address in the United Kingdom or the other EEA State in question;

(4) legal action to recover sums due under regulated mortgage contracts will in many cases require proceedings before courts in the United Kingdom or the other EEA State in question, either to enforce regulated mortgage contracts subject to the jurisdiction of these courts or to register and enforce judgements obtained elsewhere, in the case of contracts subject to non-UK jurisdictions; and

SUP 12.4.10AR to SUP 12.4.10CR explain some special requirements that apply to an appointed representative for an MCD mortgage lender or MCD mortgage credit intermediary. For example, it may be necessary for the appointed representative to be included in the Financial Services Register.
Certain named persons are exempted by the *Exemption Order* from the need to obtain authorisation. The following bodies are exempt have exemptions (which are explained in more detail in this section) in relation to carrying on by them of any of the regulated mortgage activities:

(4) The Office of Tenants and Social Landlords (known as the Tenant Services Authority) (paragraph 48(2)(c) of the Schedule to the *Exemption Order*);

(5) Scottish Homes (paragraph 48(2)(d) of the Schedule to the *Exemption Order*); and

(6) The Northern Ireland Housing Executive (paragraph 48(2)(e) of the Schedule to the *Exemption Order*);

(7) Communities Scotland (paragraph 48(2)(f) of the Schedule to the *Exemption Order*);

(8) a housing association within the meaning of Part 2 of the Housing (Northern Ireland) Order 1992 (paragraph 48(2)(g) of the Schedule to the *Exemption Order*); and

(9) a wholly-owned subsidiary of a registered social landlord within the meaning of Part I of the Housing Act 1996 (paragraph 48(3) of the Schedule to the *Exemption Order*).

The bodies in *PERG* 4.13.1G are exempt in relation to the regulated activity of arranging the variation of a regulated mortgage contract (article 25A(1)(b) of the *Regulated Activities Order*).

The bodies in *PERG* 4.13.1G are exempt in relation to the following regulated activities:

(1) arranging (bringing about) regulated mortgage contracts (except in relation to variations) (article 25A(1)(a) and (2A));

(2) advising on regulated mortgage contracts (article 53A);

(3) entering into a regulated mortgage contract (article 61(1)); and

(4) administering a regulated mortgage contract (article 61(2)).

The exemption in *PERG* 4.13.3G only applies in relation to a limited range of regulated mortgage contracts. These are set out in the table in *PERG* 4.13.5G.

Exempted regulated mortgage contracts
<table>
<thead>
<tr>
<th>Type of regulated mortgage contract</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exempted under article 3(2) of the Mortgage Credit Directive</td>
<td>See PERG 4.10A.5G(1) to (6)</td>
</tr>
<tr>
<td>Bridging loan</td>
<td>See PERG 4.13.6G</td>
</tr>
<tr>
<td>Restricted public loan</td>
<td>See PERG 4.13.7G</td>
</tr>
</tbody>
</table>

4.13.6  
A bridging loan is exempt if it meets the following conditions:

(1) it is:
   (a) either of no fixed duration; or
   (b) is due to be repaid within 12 months; and

(2) the borrower is:
   (a) an individual; and
   (b) acting for purposes which are outside their trade, business or profession; and

(3) the loan is used by the borrower as a temporary financing solution while transitioning to another financial arrangement for the land.

4.13.7  
A loan is exempted as a restricted public loan if it meets the following conditions:

(1) it is granted to a restricted public under a statutory provision with a general interest purpose; and

(2) it meets the condition in (a) or (b):
   (a) it is:
      (i) free of interest; or
      (ii) at lower borrowing rates than those prevailing on the market; or
   (b) it meets the condition in (i) and (ii):
      (i) it is on other terms which are more favourable than those prevailing on the market; and
      (ii) it is at borrowing rates not higher than those prevailing on the market; and
(3) the borrower receives timely information on the main features, risks and costs of the loan at the pre-contractual stage; and

(4) any advertising of the loan is fair, clear and not misleading.

... 

4.14.2 G ...

4.14.2A G PERG 4.10A (Activities regulated under the Mortgage Credit Directive) explains that some of these exclusions do not apply to activities which fall under the MCD.

...

4.16.1 G It is common practice in the mortgage industry for the original lender which makes the loan to pass on ownership of the loan to a third party through securitisation. Securitisation transactions take different forms, but the essence is that the original lender sells the beneficial interest (with or without the legal interest) in a mortgage portfolio to a special purpose vehicle (‘SPV’), which raises finance to pay for the portfolio by selling its own securities. The original lender may (or may not) retain the first legal charge on each mortgage in the portfolio. ...

...

4.16.3 G … a new regulated mortgage contract (see PERG 4.4.4G and PERG 4.4.13 G) …

...

4.17 Interaction with the Consumer Credit Act and consumer credit regulated activities

...

4.17.2 G Section 126(2) of the CCA (as inserted by the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2014) provides, however, that for the purposes of section 126(1) of the CCA (a land mortgage securing a regulated credit agreement is enforceable (so far as provided in relation to the agreement) on an order of the court only) and Part 9 of the CCA (judicial control) a regulated mortgage contract which would, but for the exemption in PERG 2.7.19CG(1), be a regulated credit agreement is to be treated as if it were a regulated credit agreement. This is subject to section 140A(5) of the CCA (unfair relationships between creditors and debtors), which provides that an order under section 140B of
the CCA (powers of court in relation to unfair relationships) shall not be made in connection with a credit agreement which is an exempt agreement under PERG 2.7.19CG. It therefore follows that, for example, the CCA provisions relating to time orders apply to regulated mortgage contracts.

4.17.3 G … a new regulated mortgage contract (see PERG 4.4.4G and PERG 4.4.13G).

4.17.4 G Unsecured loans, as well as loans secured on second and subsequent charges on property, are not subject to carve-out described above and may be regulated credit agreements for the purposes of the CCA and the credit-related regulated activities for which a person may need permission.

…

4.17.16 G …

Consumer credit regulated activities

4.17.17 G Whether a business decides that this chapter does or does not apply to its mortgage activities, it should go on to consider whether the activities are consumer credit regulated activities. PERG 2 has guidance on consumer credit regulated activities.

4.17.18 G A number of Regulated Activities Order exclusions from the consumer credit regulated activities are relevant to lenders under loans secured on land. These include:

(1) article 60C(2) (regulated mortgage contract is an exempt credit agreement, as summarised in PERG 2.7.19CG(1));

(2) article 60C(3) (commercial lending, as summarised in PERG 2.7.19CG(2));

(3) article 60D (loans secured on non-residential property, as summarised in PERG 2.7.19EG);

(4) article 60F (loans with a limited number of repayments, as summarised in PERG 2.7.19GG);

(5) article 60H (high net worth borrowers, as summarised in PERG 2.7.19JG); and

(6) articles 36E and 39H (exclusions for lenders in relation to credit broking, debt adjusting, debt counselling, debt collecting and debt administration, as summarised in PERG 2.8.6CG and PERG 2.8.7CG).
7.1.1 G This chapter applies to anyone involved in publishing periodicals, or in providing news services or broadcasts, who gives (or proposes to give) advice about securities, relevant investments or home finance transactions and who wishes to determine whether he will be carrying on the regulated activities of advising on investments, advising on regulated credit agreements for the acquisition of land or advising on a home finance transaction.

7.1.2 G …

(1) when a person involved in publishing periodicals, or in providing news services or broadcasts, requires authorisation to carry on the regulated activities of advising on investments, advising on regulated credit agreements for the acquisition of land or advising on a home finance transaction (see PERG 7.3 (Does the activity require authorisation));

…

7.2.1 G Advice is excluded by article 54 of the Regulated Activities Order from the regulated activities of advising on investments, advising on regulated credit agreements for the acquisition of land and advising on a home finance transaction if:

…

7.2.2 G If a person would, but for the exclusion, be carrying on the regulated activities of advising on investments, advising on regulated credit agreements for the acquisition of land or advising on a home finance transaction, or any or each of them, and will be doing so as a business in the United Kingdom (see PERG 7.3), he may wish to apply to the FCA for a certificate that the exclusion applies (see PERG 7.6). However, a person does not need a certificate to get the benefit of the exclusion. In many cases it will be clear that the exclusion in article 54 applies and a certificate is not called for. A certificate may be appropriate, however, where the exclusion appears to apply but there may be an element of doubt. The granting of a certificate would remove any such doubt.

…

7.3 Does that activity require authorisation?

…

7.3.1DA G Under article 53DA of the Regulated Activities Order (Advising on regulated credit agreements for the acquisition of land), advising a person (“P”) is a specified kind of activity if:
(1) the advice is given to P in P’s capacity as a recipient of credit, or potential recipient of credit, under a regulated credit agreement;

(2) P intends to use the credit to acquire or retain property rights in land or in an existing or projected building; and

(3) the advice consists of the provision of personal recommendations to P in respect of one or more transactions relating to regulated credit agreements.

7.3.2 G Articles 53, 53A, 53B, 53C and 53D, 53D and 53DA of the Regulated Activities Order contain a number of elements, all of which must be present before a person will require authorisation. For guidance on whether a person is carrying on these regulated activities, see PERG 8 (Financial promotion and related activities), PERG 4 (Guidance on regulated activities connected with mortgages), PERG 14.3, PERG 14.4 and PERG 14.4A (Guidance on home reversion, home purchase and regulated sale and rent back agreement activities). Guidance on the activity in article 53DA (advising on regulated credit agreements for the acquisition of land) of the Regulated Activities Order is in PERG 2.7.16FG.

7.3.4A G For persons carrying on advising on regulated credit agreements for the acquisition of land the by the way of business test is set out in PERG 2.3.2G(4)

7.3.7 G But even if advice is given in the United Kingdom, the general prohibition will not be contravened if the giving of advice does not amount to the carrying on, in the United Kingdom, of the business of advising on investments, advising on regulated credit agreements for the acquisition of land or advising on a home finance transaction. Also, the general prohibition will not be contravened if the exclusion for overseas persons in article 72 of the Regulated Activities Order (Overseas persons) applies. That exclusion applies in relation to the giving of advice on securities or relevant investments by an overseas person as a result of a 'legitimate approach' (defined in article 72(7)). In many cases where publications or services are provided from outside the United Kingdom it is likely that they will fall within the terms of this exclusion. For example, this will exclude any advice in a publication or service from being a regulated activity if it is given in response to an approach that has not been solicited in any way. It should be noted, however, that the exclusions in article 72 do not apply to the regulated activities that involve advising on a home finance transaction or advising on regulated credit agreements for the acquisition of land. The effect of this is that, where the principal purpose of an overseas periodical publication is to offer advice on securities or relevant investments and home finance transactions, the exclusion for an overseas person who provides advice to persons in the United Kingdom as
a result of a legitimate approach will not apply to the advice concerning home finance transactions.

7.3.8 G If a person is carrying on the business of advising on investments, advising on regulated credit agreements for the acquisition of land or advising on a home finance transaction in the United Kingdom, he will not require authorisation if:

(1) …

(2) he is an exempt person (see PERG 2.11 (What to do now?)); since persons are exempt only in relation to specified regulated activities, his exemption must apply to the regulated activity of advising on investments, advising on regulated credit agreements for the acquisition of land or advising on a home finance transaction as the case may be.

7.3.9 G Many people may be involved in the production of a periodical publication, news service or broadcast. But if the regulated activity of advising on investments, advising on regulated credit agreements for the acquisition of land or advising on a home finance transaction is being carried on so that authorisation is required, the FCA’s view is that the person carrying on the activity (and who will require authorisation) is the person whose business it is to have the editorial control over the content. In the case of a periodical publication, this will often be the proprietor. But particular circumstances may vary so that the responsibility for content and editorial control rests with a freelance journalist rather than with the proprietor. In such cases it may well be that the journalist may properly be viewed as carrying on his own business, using the periodical publication as the vehicle for doing so - in which case it is likely to be the journalist alone who needs the authorisation.

7.4.2 G …

(2) …

(f) to enter as a recipient of credit into a regulated credit agreement the purpose of which is to acquire or retain property rights in land or in an existing or projected building.

7.4.3 G …

(3) The second is that of a regularly updated news or information service. As with periodical publications, it does not matter how the
service is accessed by, or delivered to, the user as long as it can be read. This will include, for example, a service provided through teletext, a fax retrieval system or a website (including websites that are used through handheld devices). The fact that it must be a 'regularly updated' service means that the provision of up-to-date news or information must be a primary feature of the service (for example, where it is likely to be of commercial value to the recipient). But, in the FCA's view, a news or information 'service' is not restricted only to the giving of news or information since this would not generally constitute the regulated activity of advising on investments (see PERG 8.28 (Advice or information)), advising on regulated mortgage contracts (see PERG 4.6.13G to PERG 4.6.16G (Advice or information), advising on regulated credit agreements for the acquisition of land (see PERG 4.10A.20G), advising on a home reversion plan, advising on a home purchase plan or advising on regulated sale and rent back agreements. So the exclusion applies to services providing material in addition to news or information, such as comment or advice.

7.4.5 G ...

(2) ...

(f) to enter as a recipient of credit into a regulated credit agreement the purpose of which is to acquire or retain property rights in land or in an existing or projected building.

7.4.8 G Looking at the first disqualifying purpose set out in the exclusion, all the matters relevant to whether the regulated activities of advising on investments, advising on regulated credit agreements for the acquisition of land or advising on a home finance transaction are being carried on must be taken into account (see PERG 8.24 (Advising on investments)). If the principal purpose of a publication or service is to give to persons, in their capacity as investors (or potential investors), as borrowers, as reversion occupiers or reversion providers or as home purchasers or as SRB agreement sellers or SRB agreement providers (as the case may be), advice as referred to in PERG 7.4.5G(1), then the publication or service will not be able to benefit from this exclusion.

7.4.9 G ...

(1) material in a publication or service that invites or seeks to procure persons to engage in a relevant transaction can be said to "lead" to those transactions even if it would not constitute the regulated activities of advising on investments, advising on regulated credit agreements for the acquisition of land or advising on a home finance transaction; this includes, for example, material that consists of
generic buy or sell recommendations, corporate brochures or invitations to invest in particular products or with a particular broker or fund manager; and

...

...

8.14.18 G ... The terms of the exemption are that the promotion must comply with the rules in COBS 4, MCOB 3A or CONC 3 ...

...

8.17.20 G CONC 3 contains rules about financial promotions relating to credit-related regulated activity. CONC 3 does not apply, however, to the communication, or approval for communication, of a financial promotion to the extent it concerns qualifying credit. MCOB 3A applies to the communication or approval of a financial promotion of qualifying credit. This means that a financial promotion about credit will not usually be subject to both MCOB 3A and CONC 3 unless it is about secured and unsecured lending. Guidance on the potential application of MCOB 3A and CONC 3 ...

8.17.21 G Guide to potential application of MCOB 3A and CONC 3 to financial promotion of credit. This table belongs to PERG 8.17.20G

<table>
<thead>
<tr>
<th>Subject of promotion</th>
<th>MCOB 3A may apply</th>
<th>CONC 3 may apply</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) regulated mortgage contracts</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>...</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

...

14.8 Financial promotions

Q44 ...

If you are an authorised person who is communicating or approving the financial
promotion and it is not exempt, you will need to comply with the provisions of the Mortgages and Home Finance: Conduct of Business Sourcebook (MCOB 3.3A for financial promotions of qualifying credit, a home reversion plan, and MCOB 2.2.6AR for financial promotions of a home purchase plan or a regulated sale and rent back agreement).
Annex I

Amendments to the Responsibilities of Providers and Distributors for the Fair Treatments of Customers (RPPD)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

...

Notes

...

(12) For example ...

(14) For example, ...

(16) COBS 4.10.10R, ICOBS 3.7.5R, MCOB 3.9.5R

(17) For regulated activities ...

...