

CONDUCT OF BUSINESS (LIFETIME MORTGAGES) INSTRUMENT 2017**Powers exercised**

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers in the Financial Services and Markets Act 2000 ('the Act'):
- (1) section 137A (The FCA's general rules);
 - (2) section 137T (General supplementary powers);
 - (3) section 138C (Evidential provisions); and
 - (4) section 139A (Power of the FCA to give guidance).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 26 January 2017.

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:

(1)	(2)
Glossary of definitions	Annex A
Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)	Annex B
Supervision manual (SUP)	Annex C

Citation

- E. This instrument may be cited as the Conduct of Business (Lifetime Mortgages) Instrument 2017.

By order of the Board
25 January 2017

Annex A

Amendments to the Glossary of definitions

Delete the following definition.

<i>roll-up of interest mortgage</i>	a <i>regulated mortgage contract</i> where no payment of interest on the amount borrowed (other than interest charged when all or part of the amount borrowed is repaid voluntarily by the <i>customer</i>), is due or capable of becoming due while the <i>customer</i> continues to occupy the mortgaged property as his main residence and fulfil his obligations under the <i>regulated mortgage contract</i> .
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Annex B

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.

9 Equity release: product disclosure

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9.4 Content of illustrations

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- 9.4.4 R A *firm* must include in the *illustration* all prescribed section headings, except that:
- (1) in Section 8 of the *lifetime mortgage illustration* (What you owe and when):
 - (a) Section 8(A) (details of mortgage payments) is only required where the *customer* ~~is required to make payments to the mortgage lender in respect of the capital or all or part of the interest charged on the~~ terms of the lifetime mortgage ; either:
 - (i) require the customer to make regular payments to the mortgage lender, in respect of all or part of the interest or part of the capital due under those terms, either over the duration of the lifetime mortgage or until a specified date; or
 - (ii) expect that the customer will make such payments until he or she chooses to stop doing so.
 - (b) Section 8(B) (projection of roll-up of interest) is only required where all or part of the interest on the *lifetime mortgage* is or may be rolled-up;
- ...
- ...
- 9.4.10 R (1) In estimating the term of a *lifetime mortgage* or an open-ended *instalment reversion plan*, a *firm* must:
- (a) ~~use the following mortality table: PMA92(C=2010) and PFA92(C=2010) for males and females respectively, derivable from the Continuous Mortality Investigation Report 17, published by the Institute of Actuaries and the Faculty of~~

~~Actuaries in 1999~~ an estimate of the life expectancy of the customer that is reasonable and based on evidence; and

(b) for the purposes of the *illustration*, where the ~~table does not result in a estimate of life expectancy expressed in~~ is not a whole number of years, the term should be rounded up to the next whole year (for example, if the ~~result life expectancy~~ is between fifteen and sixteen years, an estimated term of sixteen years should be used in the *illustration*).

(2) Where the term estimated using the ~~mortality table~~ approach set out in (1) is less than fifteen years, the *firm* should use a term of fifteen years in preparing the *illustration*.

9.4.10A E Use of the most recent appropriate mortality tables in the Continuous Mortality Investigation published by the Institute and Faculty of Actuaries or in the National Life Tables published by the Office of National Statistics may be relied on as tending to establish compliance with MCOB 9.4.10R(1)(a).

...

9.4.25 G Examples of types of statement that would satisfy MCOB 9.4.24R(2) are as follows (more than one may apply to particular types of *lifetime mortgage*):

(1) For a ~~roll-up of interest mortgage~~ an interest roll-up mortgage: "...

...

...

Section 8 of a lifetime mortgage illustration: “‘What you will owe and when?’” (A) “‘Details of mortgage payments?’”

9.4.36 G The section headed “What you will owe and when” (A) “‘Details of mortgage payments?’” will apply only where the *customer* ~~is required to make payments to the mortgage lender during the life of the lifetime mortgage in respect of all or part of the interest, or part of the capital, charged on the lifetime mortgage~~ terms of the lifetime mortgage either:

(1) require the customer to make regular payments to the mortgage lender, in respect of all or part of the interest or part of the capital due under those terms, either over the duration of the lifetime mortgage or until a specified date; or

(2) expect that the customer will make such payments until he or she chooses to stop doing so.

This will include those cases where the interest payment is deducted from the income provided by a linked *investment* product (such as an annuity) such that the *customer* receives the net income.

...

Section 8 of a lifetime mortgage illustration: “What you will owe and when” (B) “Projection of roll-up of interest”

- 9.4.49 G Section 8 headed “What you will owe and when” (B) “Projection of roll-up of interest” applies only where all or part of the interest due over the life of the *lifetime mortgage* is or may be added to the loan and paid to the *mortgage lender* on repayment of the loan. The projection should be based on the term of the *lifetime mortgage* estimated in accordance with *MCOB* 9.4.10R (and if required, *MCOB* 9.4.12R).

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- 9.4.63 R Where the *customer* is not required to make payments to the *mortgage lender* on the *lifetime mortgage* and therefore all or part of the interest is rolled up, Section 10: “How the value of your home could change” must contain the following text: “When you look at how the amount you owe [goes][may go] up, remember also that property prices can go up or down, and this can affect the amount of money left over for you or your estate after the mortgage is repaid to [name of mortgage lender] :”.

...

- 9.4.114 R ...
- (3) Where the *lifetime mortgage* is ~~a roll-up of an~~ interest roll-up mortgage, the *total amount payable* must be based on the total amount that the *customer* would owe at the end of the example term.

...

- 9.4.132 R ...

Certain lifetime mortgages

- 9.4.132A R *MCOB* 9.4.132DR applies if the terms of a *lifetime mortgage* contract:
- (1) (a) require the *customer* to make regular payments to the *mortgage lender*; or
- (b) expect that the *customer* will make regular payments to the *mortgage lender*,
- in respect of all or part of the interest, or part of the capital, due under those terms, either over the duration of the *lifetime mortgage* or until a specified date; but
- (2) permit the *customer* to stop making the payments referred to in paragraph (1) at any time of his or her choosing (which may be a time before the specified date, if there is one); and

- (3) provide that, if the *customer* does stop making the payments referred to in paragraph (1), no payment in respect of interest or capital due under those terms is payable to the *mortgage lender* until the *lifetime mortgage* comes to an end.

9.4.132B G The type of *lifetime mortgage* described in *MCOB 9.4.132AR* starts out with the *customer* making regular payments as they would with a regular (non-lifetime) *interest-only mortgage* or *repayment mortgage*, but converts into an *interest roll-up mortgage* if and when the *customer* chooses to stop making payments.

9.4.132C G If only part of the loan under the *lifetime mortgage* is of the type described in *MCOB 9.4.132AR* (for example, if part of the loan is on an interest roll-up basis from the outset, and part is convertible from interest-paying to interest roll-up):

- (1) the modifications set out in *MCOB 9.4.132DR* apply only to that part of the loan that is of the type described in *MCOB 9.4.132AR*; and
- (2) the projection of roll-up of interest on the part of the loan that is on an interest roll-up basis from the outset should also be shown in Section 8B of the *illustration*, added to the projection of roll-up of interest on the convertible part of the loan.

9.4.132D R *MCOB 9.4* applies to the *lifetime mortgage illustration* with the following modifications:

- (1) Section 7 of the *illustration* (“Risks – important things you must consider”) must also include information about any fees that may be charged, and other adverse consequences (such as a change in interest rate) that may occur, as a result of the *customer* choosing to convert the mortgage to interest roll-up.
- (2) Section 8(A) of the *illustration* should be headed “What you will owe and when (A) Details of mortgage payments.” It should be completed on the assumption that the required or expected regular payments are made until the date on which the *lifetime mortgage* converts automatically to an *interest roll-up mortgage* or, if there is no such date, throughout the life of the *lifetime mortgage* as calculated according to *MCOB 9.4.10R*.
- (3) The text accompanying the *illustration* in Section 8(A) must explain the basis on which it was prepared.
- (4) The following text must be shown in a box immediately under the heading to the table in Section 8(A) of the *illustration* (“What you will owe and when: Details of mortgage payments”) as referred to in *MCOB 9.4.36G*: “This shows the amounts you will pay if you keep up mortgage payments [throughout the estimated life of the lifetime mortgage][until [the date of automatic conversion to interest roll-up], when [Part [the number of the part] of] the mortgage will convert to

an interest roll-up mortgage.] Under the terms of this mortgage, you can choose at any time to stop making payments and instead have interest added to the amount you owe. The illustration in Section 8(B) shows an example of how choosing to stop making payments could affect the amount you would owe under this lifetime mortgage.”

- (5) Section 8(B) of the illustration, referred to in MCOB 9.4.49G, should be headed “What you will owe and when (B) Projection of roll-up of interest”. It must be based on the assumption that the interest due is added to the loan from an assumed date of conversion to an *interest roll-up mortgage* until the end of its term.
- (6) For the purpose of MCOB 9.4.132DR(5), the assumed date of conversion must be:
- (a) if the *customer* has estimated the date at which they will decide to convert the mortgage to an interest roll-up basis, that date; or
- (b) in the absence of such an estimate, the earlier of:
- (i) the date (if any) on which the *lifetime mortgage* converts automatically to an *interest roll-up mortgage*, or
- (ii) the date at which one-third of the assumed term for the *lifetime mortgage* (calculated as set out in MCOB 9.4.10R) has passed.
- (7) If the *customer* must pay an additional fee for converting the loan to an interest roll-up basis at a time of their choosing, that fee must be included in the column headed “Fees charged during the year” for the year of conversion assumed for the purposes of Section 8(B) of the *illustration*.
- (8) Immediately under the heading of the table required by MCOB 9.4.51R, instead of the text set out in MCOB 9.4.50R, the following text must appear:
- “This shows how the amount(s) paid to you and the interest and any fees that we charge mount up over [insert number of years estimated in accordance with MCOB 9.4.10R or MCOB 9.4.12R] years. It has been calculated based on the assumption that [Part [the number of the part] of] the mortgage converts to an interest roll-up basis after [insert number of years used for purposes of the illustration, as determined under MCOB 9.4.132DR(6)] years. The amounts are calculated using the current interest rate(s) of [insert interest rate(s)]. After conversion to interest roll-up, interest is added to the amount you owe [insert frequency of roll-up of interest - e.g. monthly]. Remember that you may choose to convert [Part [the number of the

part] of the mortgage] to interest roll-up earlier than after the [insert number of years used for the purposes of the illustration, as determined under MCOB 9.4.132DR(6)] years assumed, and that the mortgage could run for a longer time than [insert number of years estimated in accordance with MCOB 9.4.10R or MCOB 9.4.12R] years. If you decide to convert earlier, or if the mortgage runs for longer than assumed, the amount you owe will be more than the amount shown in this illustration.”

- (9) In Section 15 of the illustration (“Overall cost of this mortgage”), the calculation of the total amount paid and the APR must be based on the assumption that the expected payments are made until the date on which the lifetime mortgage converts automatically to an interest-roll-up mortgage or, if there is no such date, throughout the life of the lifetime mortgage as calculated according to MCOB 9.4.10R. An explanation of the assumption used should be included with the illustration, in addition to the text prescribed by MCOB 9.4.111R.

9.4.132E G (1) An illustration for the type of lifetime mortgage described in MCOB 9.4.132AR will include both Section 8(A) and Section 8(B). Section 8(A) will show the number and amount of required or expected regular payments from the start of the lifetime mortgage until maturity (i.e. what will happen if the mortgage never converts to an interest roll-up basis), or until the date (if any) at which the mortgage automatically converts. Section 8(B) will show what happens if the mortgage converts to interest roll-up at the date assumed for the purpose of the illustration. The first line of the table in Section 8(B) will show the number of years for which it is assumed payments will be made, referring to Section 8(A) for the number and amounts, and subsequent lines will show how the interest rolls up from the date of conversion onwards.

- (2) For this type of lifetime mortgage, Section 8(B) may appear immediately after Section 8(A), or at the end of the illustration, or in a separate document.

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9.8 Disclosure after sale: lifetime mortgages

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Further advances

9.8.5 R The illustration provided in accordance with MCOB 7.6.7R must:

...

- (3) include an additional section headed: ‘Total borrowing’ and numbered ‘9’ after Section 8, (with subsequent sections of the illustration renumbered accordingly) including the following text:

...

- (b) a clear statement explaining the total amount that the *customer* will owe if ~~he takes~~ they take out the additional borrowing; and,

...

- (ii) where the *lifetime mortgage* is ~~a roll-up of an interest roll-up mortgage~~, the effect on the amount the *customer* would owe at the end of the estimated term and details of the estimated term that has been used (see *MCOB 9.8.6G* for *guidance* on the estimated term).

...

9.8.10 R If a *customer* requests, or agrees to, a change to a *lifetime mortgage* (other than a change as described in *MCOB 7.6.7R* to *MCOB 7.6.27R* (as modified by *MCOB 9*)) that changes the amount paid to the *customer* under a *drawdown mortgage*, or the amount that the *customer* will owe under ~~a roll-up of an interest roll-up mortgage~~, or both, a *firm* must provide the *customer* with the following information, in a single communication, before the change takes effect:

...

...

9 Annex 1R The illustration: table of contents, prescribed text and prescribed section headings and subheadings (R):

...

8.	What you will owe and when	
	(A) details of mortgage payments – this section is only required where the <i>customer</i> is required to make payments to the mortgage lender in respect of all or part of the interest payable terms of the <i>lifetime mortgage</i> either: <ul style="list-style-type: none"> • <u>require the <i>customer</i> to make regular payments to the mortgage lender, in respect of all or part of the interest or part of the capital due under those terms, either over the duration of the <i>lifetime mortgage</i> or until a specified date; or</u> • <u>expect that the <i>customer</i> will make such payments until he or she chooses to stop doing so. See <i>MCOB 9.4.36G</i></u> 	...
	See <i>MCOB 9.4.37R</i> – <i>MCOB 9.4.46R</i> <u>and, where appropriate, <i>MCOB 9.4.132DR</i></u> .	£

...

8.	What you will owe and when
<p>(B) projection of roll-up of interest – this section is only required where the customer is not required to make payments to the mortgage lender in respect of all or part of the interest payable <u>all or part of the interest due over the life of the lifetime mortgage is or may be added to the loan and paid to the mortgage lender on repayment of the loan</u> – see <i>MCOB 9.4.49G</i>.</p>	
<p>See <i>MCOB 6.4.50R</i> Insert the prescribed text from <i>MCOB 9.4.50R</i> or <i>MCOB 9.4.132DR(8)</i> as applicable.</p> <p>“This shows how the amount(s) paid to you and the interest and any fees that we charge mount up over [insert number of years] years. It has been calculated using the current interest rate of [insert interest rate]. Interest is added to the amount you owe [insert frequency of roll up of interest e.g. monthly] Remember that the mortgage could run for a longer or shorter time than [insert number of years] years, and if it runs for longer the amount you owe will carry on increasing.”</p>	

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11 Responsible lending, and responsible financing of home purchase plans

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11.6 Responsible lending and financing

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Interest roll-up mortgages

11.6.57 R The requirements in *MCOB 11.6.2R* (and any *Handbook* provisions applicable only to that *rule*) do not apply in relation to an *interest roll-up mortgage*, or to the type of *lifetime mortgage* described in *MCOB 9.4.132AR*.

11.6.57A G The type of *lifetime mortgage* described in *MCOB 9.4.132AR* is one under which the *customer* makes payments to start with, but which can be converted to an *interest roll-up mortgage* at any time of the *customer’s* choosing.

...

TP 4 Other Transitional Provisions

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the		Transitional provision	Transitional provision:	Handbook provisions:

	transitional provision applies			dates in force	coming into force
...					
<u>2</u>	<u>MCOB 9.4, MCOB 9 Annex 1R</u>	<u>R</u>	<p>(1) <u>This rule applies to a firm to which the Direction applied immediately before 26 January 2017.</u></p> <p>(2) <u>The firm may continue to comply with MCOB 9.4 and MCOB 9 Annex 1R as if the modifications under the Direction were still in force, and may disregard the changes made to MCOB 9.4 and MCOB 9 Annex 1R by instrument FCA 2017/2, until 26 July 2017.</u></p> <p>(3) <u>In this rule, references to the Direction are to the Direction for a “Modification by Consent for a Hybrid Lifetime Mortgage,” published on 7 April 2016.</u></p>	<u>26 January 2017 to 26 July 2017</u>	<u>26 January 2017</u>
<u>3</u>	<u>MCOB TP 4(2)</u>	<u>G</u>	<u>The Direction referred to in MCOB TP 4 (2) modifies rules relating to lifetime mortgages which permit the consumer to switch from an interest-paying to an interest roll-up basis. TP 4 (2) allows a firm to which the Direction applied a transitional period</u>		

			<u>during which to amend its pre-sale disclosure materials so that they comply with the <i>rules</i> relating to those disclosures as amended from 26 January 2017, rather than with the <i>rules</i> as modified under the <u>Direction.</u></u>		
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Annex C

Amendments to the Supervision manual (SUP)

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

The form at SUP 16 Annex 21R (Reporting Fields) is amended as shown.

16 Annex 21R	REPORTING FIELDS		
	R	This is the annex referred to in SUP 16.11.7R.	
		...	
	2	SPECIFIC REPORTING FIELDS	
		...	
	(c)	Mortgages	
		<p>The following data reporting fields must be completed, where applicable for all relevant <i>regulated mortgage contracts</i> except any <i>second charge regulated mortgage contract</i> that is entered into before 1 April 2017 and any <i>regulated mortgage contract</i> which is a <i>legacy CCA mortgage contract</i>:</p>	
		...	
		Data reporting field	Code (where applicable)
			Notes
		Sales Data (report for all <i>regulated mortgage contracts</i>)	
		...	
		Type of mortgage	<p>L = <i>lifetime mortgage</i></p> <p>SA = <i>shared appreciation mortgage</i></p> <p>SO = shared ownership mortgage</p> <p>BM = business loan</p> <p>BL = bridging loan</p> <p>GM = guarantor mortgage</p> <p>HN = loan to a <i>high net worth</i></p>
			<p>Use code to indicate mortgage type. Report all relevant codes.</p> <p>Report 'NA' to denote 'not applicable' where codes do not apply.</p> <p>Report a 'guarantor mortgage' where the income of a guarantor has been included in the affordability assessment.</p> <p>Report a 'low start mortgage' where payments are made on an interest-only basis for a set period at the start of the mortgage, but payments contractually revert to a repayment basis after this set period.</p> <p>Report 'VN' for contract variations that result in a new <i>regulated mortgage contract</i>, where no</p>

		<p><i>mortgage customer</i></p> <p>BR = buy-to-let mortgage (regulated)</p> <p>LO = low start mortgage</p> <p>SB = self-build mortgage</p> <p>SE = secured overdraft</p> <p>SC = <i>second charge regulated mortgage contract</i></p> <p>VN = contract variation with no affordability assessment</p> <p>NA = not applicable</p>	<p>affordability assessment has been undertaken in accordance with <i>MCOB</i> 11.6.</p> <p><u>Report 'L' if the mortgage is a lifetime mortgage of the type described in <i>MCOB</i> 9.4.132AR.</u></p>
		...	
	Method of repayment	<p>C = capital and interest</p> <p>I = interest-only</p> <p>M = mix of 'capital and interest' and 'interest-only'</p>	<p>Use code to indicate method of mortgage repayment.</p> <p>Only <u>1</u> <u>one</u> code should be entered.</p> <p>Report low start mortgages (i.e. mortgages where payments are made on an interest-only basis for a set period at the start of the mortgage, but payments contractually revert to a repayment basis after this set period) as interest-only.</p> <p><u>For a lifetime mortgage of the type described in <i>MCOB</i> 9.4.132AR, if the initial repayments are on a capital and interest basis report 'M'; in all other circumstances report 'I'.</u></p>
	Repayment strategy for	E = endowment	Report where any part of the mortgage has been advanced on an

	interest-only and mixed mortgages	<p>P = pension</p> <p>S = savings or investments (other than endowments and pensions)</p> <p>M = sale of mortgaged property</p> <p>B = sale of other property (e.g. buy-to-let or second home)</p> <p>A = sale of other asset</p> <p>C = occasional payments from income</p> <p>R = repaid by capital and interest (for low start mortgages)</p> <p>F = refinancing (for <i>bridging loans</i>)</p> <p>L = <i>lifetime mortgage</i></p> <p>O = other repayment strategy</p>	<p>interest-only basis.</p> <p>Where there is more than one repayment strategy, report all.</p> <p><u>For a <i>lifetime mortgage</i> of the type described in <i>MCOB 9.4.132AR</i>, report both 'L' and 'C'.</u></p>
	...		
	Is this an <i>interest roll-up mortgage</i> ?	<p>Y = yes <u>Yes</u></p> <p>N = no <u>No</u></p>	<p>Report 'Y' '<u>Yes</u>' where all or part of the loan is on an interest roll-up basis.</p> <p><u>Also report '<u>Yes</u>' if the mortgage is of the type described in <i>MCOB 9.4.132AR</i>.</u></p>
	...		

		Is there an <i>early repayment charge</i> ?	Y —yes <u>Yes</u> N —no <u>No</u>	Report ' Y ' ' <u>Yes</u> ' where there is an <i>early repayment charge</i> .
		...		
		...		