RETIREMENT INTEREST-ONLY MORTGAGES INSTRUMENT 2018

Powers exercised

A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):

   (1) section 137A (The FCA’s general rules);
   (2) section 137T (General supplementary powers); and
   (3) 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 23 March 2018.

Amendments to the Handbook

D. The Glossary of definitions is amended in accordance with Annex A to this instrument.

E. The Mortgages and Home Finance: Conduct of Business sourcebook (MCOB) is amended in accordance with Annex B to this instrument.

Citation

F. This instrument may be cited as the Retirement Interest-Only Mortgages Instrument 2018.

By order of the Board
22 March 2018
Annex A

Amendments to the Glossary of definitions

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

Amend the following definition as shown.

**lifetime mortgage**

(1) an **MCD exempt lifetime mortgage**; or

(2) (other than in (1)), an **article 3(1)(b) credit agreement** or a **regulated mortgage contract** which is not a retirement **interest-only mortgage**, or an **article 3(1)(b) credit agreement** under which:

(a) entry into the mortgage is restricted to older **customers** above a specified age; and

(b) the 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 **specified life events**; and

(c) while the **customer** continues to occupy the mortgaged land as **his** **their** main residence:

(i) no instalment repayments of the capital and no payment of interest on the capital (other than interest charged when all or part of the capital is repaid voluntarily by the **customer**), are due or capable of becoming due; or

(ii) although interest payments may become due, no full or partial repayment of the capital is due or capable of becoming due; or

(iii) although interest payments and partial repayment of the capital may become due, no full repayment of the capital is due or capable of becoming due;

; or

(2) an **MCD exempt lifetime mortgage** which is not a retirement **interest-only mortgage**.

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.
an interest-only mortgage:

(1) which is not an interest roll-up mortgage;

(2) entry into which is restricted to older customers above a specified age; and

(3) under which the lender is not entitled to seek full repayment of the loan 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) in a way which allows the lender to terminate the agreement.
1 Application and purpose

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1.2 General application: who? what?

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MCD application

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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 that is not a retirement interest-only 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 (other than retirement interest-only mortgages) where the firm must continue to provide an illustration in accordance with the relevant requirements in MCOB, rather than an ESIS.

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4 Advising and selling standards

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4.4A Initial disclosure requirements

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Alternative finance options

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4.4A.8A R  Where a customer is looking to take out a retirement interest-only mortgage, the firm must inform the customer, either orally or in writing, that a lifetime mortgage may be available and more appropriate for the customer.

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 one of the alternative finance options mentioned in MCOB 4.4A.8AR or MCOB 4.4A.8AAR is more appropriate for the customer where that is not the service offered to the customer.

4.7A Advised sales

Retirement interest-only mortgages

4.7A.10 R  (1) In considering whether a retirement interest-only mortgage that will be used to release capital is appropriate to the needs and circumstances of the customer for the purposes of MCOB 4.7A.2R, a firm must consider, in addition to the factors set out in MCOB 4.7A.6R, whether the benefits to the customer outweigh any adverse effect on:

(a) the customer’s entitlement (if any) to means-tested benefits; and

(b) the customer’s tax position.

(2) In considering the factors set out in MCOB 4.7A.10AR(1), where a firm has insufficient knowledge of the customer’s means-tested benefits or tax allowances to reach a conclusion, the firm must refer the customer to an appropriate source or sources such as the Pension Service, HM Revenue and Customs or a Citizens Advice Bureau (or other similar agency) to establish the required information.

(3) If a customer declines to seek further information on means-tested benefits, tax allowances or the scope for local authority (or other) grants, a firm can advise the customer (in accordance with the remaining requirements of this chapter) to enter into a retirement interest-only mortgage where there is a retirement interest-only mortgage that is appropriate to the needs and circumstances of the customer; but must confirm to the customer, in a durable medium, the basis on which the advice has been given.

5 Pre-application disclosure
5.1 Application

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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>
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<td>...</td>
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<td>Retirement interest-only mortgages</td>
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<td>MCOB 5.6.31R</td>
<td>MCOB 5.6.32R</td>
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<td>MCOB 5.6.52R(1)</td>
<td>MCOB 5.6.59R – MCOB 5.6.65R</td>
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<td>MCOB 5.6.52R(4)</td>
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<td>MCOB 5.6.140R – MCOB 5.6.145R</td>
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5.1.10 G A firm that finds any rule in MCOB 5.6 (Content of illustrations) inappropriate for the particular kind of regulated mortgage contract that the mortgage lender provides will need to seek from the FCA a waiver of that rule, unless another rule provides otherwise. SUP 8 contains details of the waiver procedure.

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5.4 Information on regulated mortgage contracts: general

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Retirement interest-only mortgages

5.4.25 R When a firm issues an illustration for a retirement interest-only mortgage that will be used to release capital, the firm must inform the customer that taking out the mortgage may affect the customer’s tax position and entitlement to benefits, and that the customer should consider taking advice on these issues before applying.

5.4.26 R If the terms of the retirement interest-only mortgage include any restrictions as to who may live in the property, these restrictions must be disclosed to the customer before an application is made.

5.4.27 G The information referred to in MCOB 5.4.25R and MCOB 5.4.26R may be given to the customer either in the illustration or in a separate document provided at the same time as the illustration.

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5.6 Content of illustrations

Content: required information

5.6.5 R The illustration provided to customers must:

(1) contain only material prescribed in MCOB 5.6 and no other material except where provided for elsewhere in MCOB 5.6;

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

5.6.6 R As a minimum the illustration must be personalised to reflect the following requirements of the customer:

(4) the term of the regulated mortgage contract (where the customer is unable to suggest a date at which he or she expects to repay the loan, for example in the case of an open-ended bridging loan, secured overdraft or mortgage credit card, then a term of 12 months must be assumed and this assumption stated); and the firm must assume a term and state that assumption, as follows:

(a) for a retirement interest-only mortgage, the firm’s reasonable estimate;

(b) in any other case (for example in the case of an open-ended bridging loan, secured overdraft or mortgage credit card), a term of 12 months; and

Section 7: ‘Are you comfortable with the risks?’

5.6.59 R Under the section heading ‘Are you comfortable with the risks?’:

(3) under the sub-heading ‘What if your income goes down?’: ‘You will still have to pay your mortgage if you lose your job or if illness prevents you from working. Think about whether you could do this.’

(4) For a retirement interest-only mortgage, the firm may substitute for the text in paragraph (3) more relevant examples of how income may
go down.

5A MCD Pre-application disclosure

5A.5 Content of European Standardised Information Sheets (ESISs)

Content: retirement interest-only mortgage

5A.5.8 R For a retirement interest-only mortgage where, in accordance with MCOB 1.2.16R(1), the firm elects to provide an ESIS instead of an illustration:

(1) the ESIS may diverge from the requirements of MCOB 5A where it is necessary to do so to describe a retirement interest-only mortgage, and

(2) the firm must also comply with MCOB 5.4.25R, MCOB 5.4.26R and MCOB 5.6.6R as though a reference to an illustration is a reference to an ESIS.

7 Disclosure at start of contract and after sale

7.5 Mortgages: statements

Annual statement: content

7.5.3B R MCOB 7.5.3R(1)(b) and MCOB 7.5.3R(1)(c) do not apply where the regulated mortgage contract is a retirement interest-only mortgage.

7.6 Mortgages: event-driven information

Switch to a retirement interest-only mortgage

7.6.21A R Where a firm proposes to vary the term of a regulated mortgage contract so that it becomes a retirement interest-only mortgage:
(1)  *MCOB 7.6.18R to MCOB 7.6.21G apply as though references to a rate switch were references to such a contract variation; and*

(2)  *MCOB 5.4 applies as though a reference to entering into a home finance transaction included such a contract variation.*

10 Annual Percentage Rate

10.3 Formula and assumptions for calculating the APR

APR calculation: assumptions as to the period for which credit is provided

10.3.8 R …

(2A) In relation to a retirement interest-only mortgage, where the APR is calculated for the purposes of an illustration the period for which the credit is to be provided must be determined in accordance with *MCOB 5.6.6R(4).*

10A MCD Annual Percentage Rate of Charge

10A.3 APRC: additional assumptions

10A.3.3 R In relation to a retirement interest-only mortgage where the firm chooses to provide an ESIS instead of an illustration, the period for which the credit is to be provided must be determined in accordance with *MCOB 5.6.6R(4).*

11 Responsible lending, and responsible financing of home purchase plans

11.6 Responsible lending and financing

The assessment of affordability
11.6.4 E (1) If a firm treats any of the following changes as not likely to be material to affordability, this may be relied upon as tending to show contravention of MCOB 11.6.2R:

(a) an extension of the term of the regulated mortgage contract or home purchase plan which it is reasonable to expect will extend into (or further into) the customer's retirement (including a change from a mortgage with a term to a retirement interest-only mortgage); or

Future changes to income and expenditure

11.6.15 G …

(4) When assessing the affordability of a retirement interest-only mortgage with joint borrowers, the firm should consider the ability of a single borrower to continue making the required payments if the other dies, taking into account relevant evidence such as pensions payable to the surviving spouse or civil partner.

Entering into interest-only mortgages

11.6.45 G The following are examples of repayment strategies that may, subject to the circumstances of the customer, be acceptable for the purposes of MCOB 11.6.41R(1):

…

(4) for a shared equity credit agreement or a retirement interest-only mortgage, the sale of the property which is the subject of the agreement.

11.6.46 R MCOB 11.6.46E(3)(b) does not apply in relation to a retirement interest-only mortgage.

Assessing affordability under an interest-only mortgage
11.6.48 R For the purposes of MCOB 11.6.2R, where a mortgage lender is lending under an interest-only mortgage in accordance with MCOB 11.6.41R(1), it may assess affordability on the basis of payment of interest only over the term (plus repayment of such capital as may be due to be repaid over the term). If it does so, it must consider as part of the customer’s committed expenditure under MCOB 11.6.5R(2)(b)(i) (or the equivalent alternative provision for transactions with high net worth mortgage customers or solely for business purposes) the cost to the customer of the repayment strategy (unless the mortgage is a retirement interest-only mortgage).

Review during the term of interest-only mortgages

11.6.49 R (1) This rule applies in relation to all interest-only mortgages which a mortgage lender enters into on or after 26 April 2014 except:

(a) lifetime mortgage mortgages;

(aa) retirement interest-only mortgages;

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