

## 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.

<i>lifetime mortgage</i>	<p>(1) <del>an MCD exempt lifetime mortgage; or</del></p> <p>(2) <del>(other than in (1));</del> <u>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</u></p> <p>(1) <u>under which:</u></p> <p>(a) entry into the mortgage is restricted to older <i>customers</i> above a specified age; and</p> <p>(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 <i>specified life events</i>; and</p> <p>(c) while the <i>customer</i> continues to occupy the mortgaged land as <del>his</del> <u>their</u> main residence:</p> <p>(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 <i>customer</i>); are due or capable of becoming due; or</p> <p>(ii) although interest payments may become due, no full or partial repayment of the capital is due or capable of becoming due; or</p> <p>(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;</p> <p><u>; or</u></p> <p>(2) <u>an MCD exempt lifetime mortgage which is not a retirement interest-only mortgage.</u></p>
--------------------------	--

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.

*retirement interest-only mortgage*

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.

## 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.

#### 1 Application and purpose

...

#### 1.2 General application: who? what?

...

MCD application

...

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*.

...

#### 4 Advising and selling standards

...

#### 4.4A Initial disclosure requirements

...

Alternative finance options

...

4.4A.8A R Where a *customer* is looking to take out a *retirement interest-only*  
A *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  
A 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**

...

5.1.5 G This table belongs to MCOB 5.1.4G

Type of mortgage	Requirements that do not apply	Additional or alternative requirements
...	...	...
<u>Retirement interest-only mortgages</u>	<u>MCOB 5.6.31R</u> <u>MCOB 5.6.52R(1)</u> <u>MCOB 5.6.52R(4)</u> <u>MCOB 5.6.140R – MCOB 5.6.145R</u>	<u>MCOB 5.6.32R</u> <u>MCOB 5.6.59R – MCOB 5.6.65R</u>

...

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.

...

**5.4 Information on regulated mortgage contracts: general**

...

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.

...

## 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 5*; and
  - (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, if the customer is unable to suggest a date at which he they expects expect 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.
- A

...

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*;
- ...
- ...