

**MORTGAGES: CONDUCT OF BUSINESS SOURCEBOOK
INSTRUMENT 2003**

Powers exercised

- A. The Financial Services Authority makes the rules and gives the guidance in this instrument in the exercise of the powers listed in Schedule 4 to the Annex to this instrument (Powers exercised).
- B. The rule-making powers listed in that schedule are specified for the purpose of section 153(2) of the Act (Rule-making instruments).

Commencement

- C. This instrument comes into force on 31 October 2004.

Citation

- D. (1) This instrument may be cited as the Mortgages: Conduct of Business Sourcebook Instrument 2003.

(2) The Annex to this instrument (including its schedules) may be cited as the Mortgages: Conduct of Business sourcebook (or MCOB).

By order of the Board
15 October 2003

Annex

Mortgages: Conduct of Business sourcebook

MCOB Transitional Provisions

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
1	Every <i>rule</i> in <i>MCOB</i> unless the context otherwise requires and subject to any more specific transitional provision relating to the matter.	R	If the application of any provision in <i>MCOB</i> is dependent on the occurrence of a series of events, some of which occur before, and some of which occur after, 31 October 2004, the provision applies with respect to the events that occur after 31 October 2004.	From 31 October 2004 for six months.	31 October 2004

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
2		G	<p>(1) For example, if a <i>customer</i> submits an application for a <i>regulated mortgage contract</i> before 31 October 2004, a <i>firm</i> responding to that application after 31 October 2004 will not be required to provide the <i>customer</i> with an <i>illustration</i> in accordance with <i>MCOB 5</i>. However, the <i>firm</i> will have to comply with the requirements in <i>MCOB</i> when taking any further action (such as issuing an offer) regarding the application after 31 October 2004.</p> <p>(2) An <i>offer document</i> may have to be issued under transitional provision 1R even though no <i>illustration</i> has been given out (because that part of the transaction occurred before 31 October 2004). In such cases the suitably adapted <i>illustration</i> required by <i>MCOB 6.4.4R</i> would need to omit:</p> <p>(a) the required text in <i>MCOB 6.4.4R(5)(b)</i>; and</p> <p>(b) Section 2 of the <i>illustration</i> entirely.</p>		
3		G	<p><i>MCOB</i> applies to <i>regulated mortgage contracts</i> entered into on or after 31 October 2004. Variations made after that date to mortgage contracts entered into before that date are not subject to <i>FSA regulation</i> but may be subject to the Consumer Credit Act 1974. <i>AUTH App 4.4.13G</i> contains guidance on the variation of contracts entered into before 31 October 2004.</p>		

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
4	MCOB 2.2.6R	R	<p>(1) A <i>firm</i> must disclose to a <i>customer</i> :</p> <p>(a) the extent to which transactions will be subject to <i>FSA</i> regulation, stating in particular the position with regard to advice (where given), disclosure and offer;</p> <p>(b) a statement that the Consumer Credit Act 1974 will not apply to the <i>regulated mortgage contract</i> and that, where applicable, any Consumer Credit Act rights or requirements set out in previous communications will not apply; and</p> <p>(c) details concerning complaints and redress for services provided before 31 October 2004 and those provided after 31 October 2004.</p> <p>(2) Unless already given to the <i>customer</i> before 31 October 2004, the information required in (1) must be communicated in a <i>durable medium</i> at the time of the first contact between the <i>firm</i> and the <i>customer</i> after 31 October 2004.</p>	From 31 October 2004 for six months.	31 October 2004

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
5	MCOB 2.2.6R	G	<p>At 31 October 2004, there will be cases where a <i>firm</i> has issued documentation which satisfies the requirements of the Consumer Credit Act 1974, but where no CCA agreement has been concluded. A <i>customer</i> may even have signed a CCA agreement, which has not been executed before the onset of mortgage regulation. In such cases, a <i>firm</i> must take care to avoid giving the impression that any agreement reached after 31 October 2004 will be subject to the Consumer Credit Act 1974, as to imply otherwise might leave the <i>firm</i> in breach of MCOB 2.2.6R. This is a particular risk given that any initial documentation that the <i>customer</i> will have received may have been in compliance with that Act. Equally, it is possible that once mortgage regulation begins, the customer would, in the absence of any information from the <i>firm</i>, form the view that the entire transaction is regulated by the FSA. Accordingly, in such a case, a <i>firm</i> must provide the <i>customer</i> with the information required by transitional provision 4R(1) and at the time and in the manner required by transitional provision 4R(2), in order to clarify the position.</p>		

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
6	MCOB 3.6	R	<p>(1) Providing it does not state or imply that protections under the Consumer Credit Act 1974 apply, a <i>non-real time qualifying credit promotion</i> communicated:</p> <p>(a) in a directory (or similar publication) that is updated annually;</p> <p>(b) otherwise than in (a);</p> <p>after 31 October 2004 that was first communicated before that date will be in compliance with the rules in MCOB 3.6 if it satisfies the advertising requirements under the Consumer Credit Act 1974.</p> <p>(2) Paragraph (1) does not have effect if, and to the extent that, it would be inconsistent with any community obligation of the <i>United Kingdom</i>.</p>	<p>(1)(a) From 31 October 2004 for one year;</p> <p>(1)(b) From 31 October 2004 for three months.</p>	31 October 2004
7	MCOB 3.6	G	<p>(1) <i>Mortgage lenders</i> and <i>mortgage administrators</i> should take care to ensure that where they rely on transitional provision 6R for compliance with MCOB 3.6, they do not indicate in the <i>non-real time qualifying credit promotion</i> that protections under the Consumer Credit Act 1974 apply.</p> <p>(2) Where transitional provision 6R applies, a <i>firm</i> that confirms compliance with the rules in MCOB 3 under MCOB 3.9, or approves the <i>non-real time qualifying credit promotion</i> under MCOB 3.11 should confirm that the promotion meets the requirements of the Consumer Credit Act 1974.</p>		

1 APPLICATION AND PURPOSE

1.1 Application and purpose

Application

1.1.1 G *MCOB* applies as described in this chapter.

Purpose

1.1.2 G The purpose of this chapter is to set out to whom, for what activities, and within what territorial limits the *rules, evidential provisions* and *guidance* in *MCOB* apply. This chapter also provides *guidance* on the application of other parts of the *Handbook* to a *firm* that carries on *regulated mortgage activities*.

1.2 General application: who? what?

1.2.1 R *MCOB* applies to every *firm* that:

- (1) carries on *regulated mortgage activities* (subject to *MCOB* 1.2.3R(1); or
- (2) *communicates or approves a qualifying credit promotion*.

Firm types and the regulated mortgage activities

1.2.2 G The application of most of *MCOB* is expressed by reference to four types of *firm*: *mortgage lenders, mortgage administrators, mortgage arrangers* and *mortgage advisers*. This includes those *firms* that provide business loans to *customers* under a *regulated mortgage contract* (see *MCOB* 1.2.3R to *MCOB* 1.2.9G). A single *firm* may fall into more than one of these types. *Guidance* on these *firm* types, the *regulated mortgage activities* which they carry on, a description of what those activities cover and what is excluded is set out in *MCOB* 1 Ann 1G. *AUTH* App 4 contains detailed *guidance* on those activities.

Business loans: application of MCOB

1.2.3 R In relation to a *regulated mortgage contract* for a business purpose:

- (1) *MCOB* applies if the *customer* is not a *large business customer*; and
- (2) if *MCOB* applies, a *firm* must either:
 - (a) comply with *MCOB* in full (disregarding the tailored provisions for *regulated mortgage contracts* for a business purpose in the remainder of *MCOB*); or
 - (b) comply with *MCOB* taking account of those tailored provisions, including *MCOB* 1.2.7R.

- 1.2.4 G *MCOB* 1 Ann 2G contains a table summarising the provisions of *MCOB* that apply to *regulated mortgage contracts* that are for a business purpose. For detail of the tailored provisions applying, see the section on ‘business loans’ set out in each relevant chapter.
- 1.2.5 G (1) In order for a loan to fall within the definition of a *regulated mortgage contract*, at least 40% of the total of the land to be given as security must be used as or in connection with a dwelling. Therefore, the variation in approach provided for in *MCOB* 1.2.3R(2) can only apply where the loan being used for a business purpose is secured against a property at least 40 per cent of which is used as a dwelling. It cannot apply to a loan secured on property that is used solely for a business purpose.
- (2) Whether a *regulated mortgage contract* is for a ‘business purpose’ will be a matter of fact to be determined by a *firm* depending on the individual circumstances of each case. In the *FSA*’s opinion, a *regulated mortgage contract* secured, for example, on the borrower’s own home, but used to finance the purchase of a single buy-to-let property will not be for a business purpose.

- 1.2.6 G In determining whether a *customer* is a *large business customer* for the purposes of *MCOB* 1.2.3R(1), a *firm* will need to have regard to the figure given for the *customer*’s annual turnover in the *customer*’s annual report and accounts or business plan. In addition, a *firm* may rely on information provided by the *customer* about the annual turnover, unless, taking a common-sense view of this information, it has reason to doubt it.

Business loans: additional requirements if tailored route is used

- 1.2.7 R In relation to a *regulated mortgage contract* for a business purpose, if a *firm* has opted for the tailored route in *MCOB* 1.2.3R(2), it must adopt the following modifications to the provisions in *MCOB*:
- (1) (except in relation to sections 6 and 8 of any initial disclosure document provided in accordance with *MCOB* 4.4.1R(1)(c)(i) or sections 5 and 8 of any initial disclosure document provided in accordance with *MCOB* 4.4.1R(1)(c)(ii)) substitute an alternative description of the facility provided under the *regulated mortgage contract* for ‘mortgage’ where that term is used in any disclosure;
- (2) substitute the term ‘illustration’ for ‘key facts illustration’ when opting to use the tailored business loans rules in *MCOB* 4.9, *MCOB* 5.7, *MCOB* 6.7 or *MCOB* 7.7; and
- (3) limit disclosure to facilities provided under the *regulated mortgage contract*.

- 1.2.8 G (1) *Firms* are reminded of the requirement in *MCOB 2.2.6R* that any communication should be clear, fair and not misleading when substituting an alternative for the term ‘mortgage’ in accordance with *MCOB 1.2.7R(1)*.
- (2) Possible alternatives to the term ‘mortgage’ include, for example, ‘secured business overdraft’, ‘secured loan’ or ‘secured business credit’.
- 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, 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*.
- Authorised professional firms**
- 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);***
- (2) ***MCOB 3 (Financial promotion); and***
- (3) ***MCOB 4.4 (Initial disclosure requirements) but only as regards providing the information contained in section 7 (What to do if you have a complaint) and section 8 (Are we covered by the Financial Services Compensation Scheme?) of MCOB 4 Ann 1R or MCOB 4 Ann 2R, and MCOB 8 Ann 1R or MCOB 8 Ann 2R***
- 1.2.11 G *Authorised professional firms* should be aware of the following:
- (1) *PROF 5* (Non-mainstream regulated activities); and
- (2) *MCOB 3.1.9R* (Authorised professional firms) and the exception in article 55 of the *Financial Promotion Order* (Communications by members of the professions) which applies in relation to *qualifying credit promotions* of *authorised professional firms* under *MCOB 3.2.5R(3)* (Exemptions).
- Pre-contractual arrangements by a mortgage lender**
- 1.2.12 R **In *MCOB* the activities of a *mortgage lender* which would be *arranging* but for article 28A of the *Regulated Activities Order* (Arranging contracts to which the arranger is a party), are to be treated as *arranging* and therefore also as *regulated mortgage activities*.**
- 1.2.13 G The effect of article 28A of the *Regulated Activities Order* would normally mean that arrangements made by a party to a *regulated mortgage contract* would not fall within the *regulated mortgage*

activity of arranging. So in a direct sale, a *mortgage lender* would not be carrying on the *regulated activity of arranging* but, where the transaction proceeds to completion, would instead be involved in the *regulated activity of entering into a regulated mortgage contract*. However, the provisions in *MCOB* on *arranging regulated mortgage contracts* are applied to pre-contractual arrangements by a *mortgage lender*.

Summary of the application of the chapters of MCOB

1.2.14 G A table summarising the application of the various chapters of *MCOB* to *firms* that carry on *regulated mortgage activities* is set out in *MCOB* 1 Ann 3G. For the detailed application of each chapter, see the application *rule* at the start of that chapter.

1.3 General application: where?

Location of the customer

1.3.1 R Except as set out in this section, *MCOB* applies if the *customer* of a *firm* carrying on *regulated mortgage activities* is resident in:

- (1) the *United Kingdom*; or
- (2) another *EEA State*, but in this case only if the activity is carried on from an establishment maintained by the *firm* (or its *appointed representative*) in the *United Kingdom*;

at the time that the *regulated mortgage activity* is carried on.

Financial Promotion

1.3.2 R The territorial scope of *MCOB* 3 (Financial promotion) is set out in *MCOB* 3.3 (Application: where) rather than in this section.

Electronic commerce activities and communications

1.3.3 R The territorial scope of this sourcebook is modified by *ECO* in relation to *electronic commerce activities* and *electronic commerce communications*.

Distance contracts entered into from an establishment in another EEA state

1.3.4 R (1) The *rules* in (2) do not apply to a *firm* with respect to an activity exclusively concerning a *distance contract* if the following conditions are satisfied:

- (a) the *firm* carries on the activity from an establishment maintained by the *firm* in an *EEA State* other than the *United Kingdom*; and
- (b) either the *EEA State*:

- (i) has implemented the *DMD*; or
- (ii) has obligations in its domestic law corresponding to those provided for by the *DMD*;

and, in either case, with the result that the obligations provided for by the *DMD* (or corresponding obligations) are applied by that State when the *firm* carries on that activity; and

- (c) the *firm* is a national of an *EEA State* or a company or firm mentioned in article 48 of the *Treaty*.

(2) The *rules* which do not apply are:

- (a) *MCOB 4.4* (Initial disclosure requirements);
- (b) *MCOB 4.5* (Additional disclosure for distance mortgage mediation contracts with retail customers);
- (c) *MCOB 4.6* (Cancellation of distance mortgage mediation contracts);
- (d) *MCOB 5* (Pre-application disclosure);
- (e) *MCOB 6* (Disclosure at offer stage);
- (f) *MCOB 7.6.7R* to *MCOB 7.6.17R* (Further advances);
- (g) *MCOB 8.3* (Application of rules in *MCOB 4*) to the extent that it applies *MCOB 4.4* to *MCOB 4.6*;
- (h) *MCOB 8.4* (Initial disclosure requirements: home reversion schemes);
- (i) *MCOB 9.3* (Pre-application disclosure);
- (j) *MCOB 9.4* (Content of illustrations); and
- (k) *MCOB 9.5* (Disclosure at offer stage for lifetime mortgages).

Distance contracts with retail customers

1.3.5 G Parts of *MCOB* relate to *distance contracts* (or *distance mortgage mediation contracts*) with *retail customers*. These expressions are derived from the *Distance Marketing Directive*, and the following paragraphs provide some *guidance* to *firms* on their meaning:

- (1) *Retail customer*

The *Distance Marketing Directive* applies for *distance contracts* with ‘any natural person who ... is acting for purposes which are outside his trade, business or profession’, for which the term ‘*retail customer*’ has been adopted. Examples of individuals who would be regarded as *retail customers* include:

- (a) personal representatives, including executors, unless they are acting in a professional capacity, for example a solicitor acting as executor; or
- (b) private individuals acting in personal or other family circumstances, for example, a trustee of a family trust.

(2) *Distance contract*

To be a *distance contract*, a contract must be concluded under an ‘organised distance sales or service-provision scheme’ run by the contractual provider of the service who, for the purpose of the contract, makes exclusive use (directly or through an intermediary) of one or more *means of distance communication* up to and including the time at which the contract is concluded. So:

- (a) the *firm* must have put in place facilities designed to enable a *customer* to deal with it exclusively at a distance, such as facilities for a *customer* to deal with it purely by post, telephone, fax or the Internet. If a *firm* normally operates face-to-face and has no facilities in place enabling a *customer* to deal with it customarily by distance means, the *DMD* will not apply. A one-off transaction effected exclusively by distance means to meet a particular contingency or emergency will not be a *distance contract*;
- (b) there must have been no simultaneous physical presence of the *firm* and the other party to the contract throughout the offer, negotiation and conclusion of the contract. So, for example, contracts offered, negotiated and concluded over the Internet, through a telemarketing operation, or by post will normally be *distance contracts*.

Use of intermediaries

- 1.3.6 G The mere fact that an intermediary (acting for the supplier or for the *retail customer*) is involved, does not make the sale of a financial product or service a *distance contract*. There will not be a *distance contract* if there has been simultaneous physical presence of the intermediary and the *retail customer* at some stage in the offer, negotiation and conclusion of the contract, which has been meaningful in terms of the contract which ensues.

1.4 Application of the Handbook in relation to mortgages

- 1.4.1 G A table summarising the application of the *Handbook* to *firms* carrying on *regulated mortgage activities* is set out in *MCOB* 1 Ann 4G. For the detailed application of each module, see the application provision at the start of the module, and each chapter or section.

1.5 Application to appointed representatives

- 1.5.1 G (1) Although *MCOB* does not apply directly to a *firm's appointed representatives*, a *firm* will always be responsible for the acts and omissions of its *appointed representatives* in carrying on business for which the *firm* has accepted responsibility (section 39(3) of the *Act*). In determining whether a *firm* has complied with any provision of *MCOB*, anything done or omitted by a *firm's appointed representative* (when acting as such) will be treated as having been done or omitted by the *firm* (section 39(4) of the *Act*).
- (2) *Firms* should refer to *SUP* 12 (Appointed representatives), which sets out requirements which apply to *firms* using *appointed representatives*.

1.6 Application in relation to the Consumer Credit Act 1974

- 1.6.1 G *MCOB* applies to *regulated mortgage contracts* entered into after 31 October 2004. Variations made after that date to contracts entered into before that date are not subject to *FSA* regulation but may be subject to the Consumer Credit Act 1974. *AUTH* App 4.4.13G contains *guidance* on the variation of contracts entered into before 31 October 2004.
- 1.6.2 G *Principle 2* requires a *firm* to conduct its business with due skill, care and diligence. The purpose of *MCOB* 1.6.3R is to reinforce this. The *FSA* would expect *firms* to take appropriate steps to determine whether any mortgage it proposes to enter into is subject to *FSA* regulation.
- 1.6.3 R Before a *firm* enters into a mortgage, it must take all reasonable steps to establish whether that mortgage will be a *regulated mortgage contract* and therefore subject to *MCOB*.
- 1.6.4 R If, notwithstanding the steps taken by a *firm* to comply with *MCOB* 1.6.3R, it transpires that a mortgage which the *firm* has treated as unregulated is in fact a *regulated mortgage contract*, the *firm* must as soon as practicable after the correct status of the mortgage has been established:
- (1) contact the *customer* and provide him with the following information in a *durable medium*:
- (a) a statement that the mortgage contract is a *regulated mortgage contract* subject to *FSA* regulation, stating

in particular the position with regard to redress and compensation; and

(b) (where relevant) a statement that the Consumer Credit Act 1974 will not apply to the mortgage contract and that any Consumer Credit Act rights or requirements set out in previous communications will not apply;

(2) apply to the *regulated mortgage contract* all relevant *MCOB* requirements, such as those on disclosure (in *MCOB 7*) or on the treatment of *customers in arrears* (in *MCOB 13*).

1.6.5

G

- (1) *MCOB 1.6.4R(2)* means, for example, that if a *firm* discovered immediately after completion that a loan was a *regulated mortgage contract*, the *firm* would be required to comply with *MCOB 7.4* (Disclosure at the start of the contract).
- (2) Although *MCOB 1.6.4R* recognises that *firms* may become aware that a mortgage is a *regulated mortgage contract* at a late stage, the *FSA* expects this to be an extremely rare occurrence. It could arise, for example, if a *firm* has acted on the understanding, verified as far as was practicable, that in respect of a particular mortgage contract less than 40% of the land would be used in connection with a dwelling. If it was discovered later that more than 40 % of the land was used in connection with the dwelling (and provided that all the other legal requirements were met) the mortgage will be a *regulated mortgage contract* to which *MCOB* applies.
- (3) *MCOB 1.6.3R* and *MCOB 1.6.4R* do not override the application of *MCOB* to any *regulated mortgage contract*. *MCOB* applies notwithstanding a *firm's* genuine belief that a mortgage is unregulated. In deciding whether to take disciplinary action as a result of a breach of *MCOB*, the *FSA* will take into account whether the action by the *firm* was reckless or deliberate (see *ENF 11.4.1R(1)(a)*).

MCOB 1: Application and purpose

Annex 1 G

Summary of firm types and of the regulated mortgage activities

1 Table

This annex belongs to *MCOB 1.2.2G* and summarises the four *firm* types which are used in *MCOB*, the *regulated mortgage activities* which they carry on, what those activities cover and what is excluded. (See *AUTH* App 4 for detailed *guidance on regulated mortgage activities*.) References to articles are to articles of the *Regulated Activities Order*.

2 Table

The exclusions listed in this table are only a summary of the exclusions in the *Regulated Activities Order*. This summary is not a complete explanation of the exclusions and should not be relied on as if it were.

Type of firm	Regulated activity	Description of activity	Summary of exclusions
<i>mortgage lender</i>	<i>entering into a regulated mortgage contract as lender (article 61(1) (Regulated mortgage contracts)).</i>	the provision of credit (which includes a cash loan or any other form of financial accommodation) to an individual or trustee under a <i>regulated mortgage contract</i> .	unless: (1) the <i>person</i> providing credit is acting in the capacity of trustee or personal representative (article 66). See <i>AUTH</i> App 4.10.5G – 4.10.8G; or (2) both the lender and borrower are overseas (<i>AUTH</i> App 4.11 (Link between activities and the United Kingdom)).
<i>mortgage administrator</i>	<i>administering a regulated mortgage contract where that contract is entered into after 31 October 2004 (article 61(2) (Regulated mortgage contracts)).</i>	(1) notifying the borrower of changes in interest rates or payments due under the contract, or of other matters of which the contract requires him to be notified; or (2) taking any necessary steps for the purposes of collecting or receiving payments due under the contract from the borrower	unless: (1) the <i>person</i> arranges for a <i>mortgage administrator</i> to administer the contract (article 62); or (2) the <i>person</i> administers the contract for a period of not more than one <i>month</i> after the arrangement in (1) has come to an end (article 62); or (3) the <i>person</i> administers the contract under an agreement with a <i>mortgage administrator</i> (article 63); or (4) the <i>person</i> administering the contract is acting in the capacity of trustee or

			<p>personal representative (article 66). See <i>AUTH</i> App 4.10.5G – 4.10.8G; or</p> <p>(5) both the administrator and borrower are overseas (<i>AUTH</i> App 4.11 (Link between activities and the United Kingdom)).</p>
<i>mortgage adviser</i>	<i>advising on regulated mortgage contracts</i> (article 53A (Advising on regulated mortgage contracts)).	<p>giving <i>advice</i> to a <i>person</i> in his capacity as borrower or potential borrower on the merits of doing any of the following:</p> <p>(1) entering into a particular <i>regulated mortgage contract</i>; or</p> <p>(2) varying the terms of a <i>regulated mortgage contract</i> entered into after 31 October 2004 in such a way as to vary the borrower's obligations under the contract (see <i>AUTH</i> App 4.6 (Advising on regulated mortgage contracts)).</p>	<p>unless:</p> <p>(1) the advice is given in a periodical publication, regularly updated news and information service or broadcast (article 54); see <i>AUTH</i> 7 (Periodical publications, news services and broadcasts: applications for certification); or</p> <p>(2) the advice is given in the course of administration of the contract by an <i>authorised person</i> (article 54A); or</p> <p>(3) the <i>advice</i> is given by a <i>person</i> carrying on a profession or business (other than a <i>regulated activity</i>) (article 67). See <i>AUTH</i> App 4.10 (Exclusions applying to more than one regulated activity); or</p> <p>(4) the <i>person</i> giving the advice is acting in the capacity of trustee or personal representative (article 66). See <i>AUTH</i> App 4.10.5G-4.10.8G.</p>

<p><i>mortgage arranger</i></p>	<p>(1) making arrangements for another <i>person</i> to</p> <p>(a) <i>enter into a regulated mortgage contract</i> as borrower; or</p> <p>(b) vary the terms of a <i>regulated mortgage contract</i> entered into by him as borrower after 31 October 2004 in such a way as to vary his obligations under the contract (article 25A(1)).</p>	<p>(1) making arrangements which bring about, or would bring about:</p> <p>(a) the <i>entering into</i> of a <i>regulated mortgage contract</i>; or</p> <p>(b) the variation of the terms of a <i>regulated mortgage contract</i> entered into after 31 October 2004,</p> <p>for example brokers making arrangements on behalf of a borrower which go beyond merely introducing. See <i>AUTH</i> App 4.5.2G.</p>	<p>unless:</p> <p>(1) the <i>person</i> making the arrangements is to be a party to the <i>regulated mortgage contract</i> (article 28A) (but a <i>mortgage lender</i> is treated as a <i>mortgage arranger</i> for the purposes of <i>MCOB</i>: see <i>MCOB</i> 1.2.12R); or</p> <p>(2) the arrangements do not bring about or would not bring about the <i>regulated mortgage contract</i> in question (article 26); or</p> <p>(3) the arrangements are made between a borrower and an <i>authorised person</i> by an <i>unauthorised person</i> if specified conditions as to advice and remuneration are satisfied (article 29) (see <i>AUTH</i> App 4.5.8G); or</p> <p>(4) the arrangements are made in the course of administration by an <i>authorised person</i> (article 29A); or</p> <p>(5) the arrangements are made by a <i>person</i> in the course of carrying on a profession or business (other than a <i>regulated activity</i>) (see <i>AUTH</i> App 4.10) (Exclusions applying to more than one regulated activity); or</p> <p>(6) where the arranger and borrower are overseas (<i>AUTH</i> App 4.11 (Link between activities and the United Kingdom)).</p>
---------------------------------	--	--	---

<p>(2) making arrangements with a view to a person who participates in the arrangements entering into a <i>regulated mortgage contract</i> as borrower (article 25A(2)).</p>	<p>(2) making arrangements with a view to a person participating in those arrangements entering into a <i>regulated mortgage contract</i> (for example introducing potential borrowers to brokers or lenders). See <i>AUTH</i> App 4.5.3G.</p>	<p>(2) – (6) also apply and, in addition:</p> <p>(1) arrangements under which a borrower is introduced to a <i>mortgage arranger</i>, a <i>mortgage adviser</i> or <i>mortgage lender</i> (which will include <i>overseas firms</i>) or an <i>appointed representative</i> who is appointed to <i>arrange</i> or <i>advise on a regulated mortgage contract</i> (article 33A). (See <i>AUTH</i> App 4.5.10G – 4.5.18G); or</p> <p>(2) where the arrangements simply enable the parties to communicate with one another (for example internet service providers or telecommunication networks) (article 27).</p>
--	--	---

MCOB 1: Application and purpose

Annex 2G

Summary of the tailored provisions in MCOB that apply to regulated mortgage contracts that are for a business purpose and are not with large business customers

1 Table

This annex belongs to *MCOB 1.2.4G*

2 Table

Chapter	Tailored provisions of <i>MCOB</i> that apply to <i>regulated mortgage contracts</i> that are for a business purpose
<i>MCOB 1</i> (Application and purpose)	<i>MCOB 1.2.3R</i> to <i>MCOB 1.2.9G</i> (Business loans: application of <i>MCOB</i>)
<i>MCOB 2</i> (Conduct of business standards: general)	None
<i>MCOB 3</i> (Financial promotion)	None
<i>MCOB 4</i> (Advising and selling standards)	<i>MCOB 4.9</i> (Business loans)
<i>MCOB 5</i> (Pre-application disclosure)	<i>MCOB 5.7</i> (Business loans)
<i>MCOB 6</i> (Disclosure at the offer stage)	<i>MCOB 6.7</i> (Business loans)
<i>MCOB 7</i> (Disclosure at start of contract and after sale)	<i>MCOB 7.7</i> (Business loans)
<i>MCOB 8</i> (Lifetime mortgages: advising and selling standards)	None
<i>MCOB 9</i> (Lifetime mortgages: product disclosure)	None
<i>MCOB 10</i> (Annual percentage rate)	None
<i>MCOB 11</i> (Responsible lending)	None
<i>MCOB 12</i> (Charges)	<i>MCOB 12.6</i> (Business loans)
<i>MCOB 13</i> (Arrears and repossessions)	<i>MCOB 13.7</i> (Business loans)

MCOB 1: Application and purpose

Annex 3 G

Summary of the application of the chapters of MCOB

1 Table

This annex belongs to *MCOB 1.2.8G* and summarises the application of the various chapters of *MCOB* to *firms* that carry on *regulated mortgage activities* and *firms* that *communicate* or *approve qualifying credit promotions*. For the detailed application of each chapter, see the *application rule* at the start of that chapter.

2 Table

Chapter	Who does the chapter apply to?
<i>MCOB 2</i> (Conduct of business standards: general)	<p>(1) The whole chapter applies to a <i>mortgage lender</i>; a <i>mortgage administrator</i>; a <i>mortgage adviser</i> and a <i>mortgage arranger</i> when it carries on a <i>regulated mortgage activity</i>;</p> <p>(2) <i>MCOB 2.5</i>, <i>MCOB 2.6</i>, <i>MCOB 2.7</i>, and <i>MCOB 2.8</i> apply to a <i>firm</i> that <i>communicates</i> or <i>approves</i> a <i>qualifying credit promotion</i>.</p>
<i>MCOB 3</i> (Financial promotion)	The whole chapter applies to a <i>firm</i> when it <i>communicates</i> or <i>approves</i> a <i>qualifying credit promotion</i>
<i>MCOB 4</i> (Advising and selling standards)	<p>The whole chapter applies to a <i>mortgage adviser</i>; the whole chapter except for <i>MCOB 4.6</i> and <i>MCOB 4.7</i> applies to a <i>mortgage lender</i> and the whole chapter except for <i>MCOB 4.7</i> applies to a <i>mortgage arranger</i>.</p> <p>The application of <i>MCOB 4</i> for a <i>regulated lifetime mortgage contract</i> is replaced by <i>MCOB 8</i> (Lifetime mortgages: advising and selling standards).</p>
<i>MCOB 5</i> (Pre-application disclosure)	<p>The whole chapter applies to a <i>mortgage lender</i>; <i>mortgage administrator</i>; <i>mortgage adviser</i> and <i>mortgage arranger</i>, when it:</p> <p>(1) makes a <i>personal recommendation</i> about a particular mortgage to a <i>customer</i>; or</p> <p>(2) provides information to a <i>customer</i> that is specific to the amount that the <i>customer</i> wants to borrow on a particular <i>regulated mortgage contract</i>, including information provided in response to a request from a <i>customer</i>; or</p> <p>(3) provides the means for a <i>customer</i> to make an application to it;</p> <p>in connection with <i>entering into</i> or varying a <i>regulated mortgage contract</i> provided by a <i>mortgage lender</i>.</p>

Chapter	Who does the chapter apply to?
	<p>The application of <i>MCOB 5</i> for a <i>regulated lifetime mortgage contract</i> is replaced by <i>MCOB 9</i> (Lifetime mortgages: product disclosure).</p> <p>The application of <i>MCOB 5</i> for the variation of a <i>regulated mortgage contract</i> is replaced by <i>MCOB 7</i> (Disclosure at start of contract and after sale).</p>
<i>MCOB 6</i> (Disclosure at the offer stage)	<p>The whole chapter applies to a <i>mortgage lender</i> when it makes an <i>offer</i> to a <i>customer</i> with a view to <i>entering into a regulated mortgage contract</i> or to varying an <i>existing regulated mortgage contract</i> by adding or removing a party, making a further advance or switching all or part of the <i>regulated mortgage contract</i> from one type of interest rate to another.</p> <p>In relation to <i>regulated lifetime mortgage contracts</i>, <i>MCOB 6</i> is replaced by <i>MCOB 9</i> (Lifetime mortgages: product disclosure).</p>
<i>MCOB 7</i> (Disclosure at start of contract and after sale)	<p>(1) The whole chapter applies to a <i>mortgage lender</i>;</p> <p>(2) <i>MCOB 7.1 – MCOB 7.3.3</i> and <i>MCOB 7.5 – MCOB 7.7.4G</i> apply to a <i>mortgage administrator</i>;</p> <p>(3) <i>MCOB 7.1 – MCOB 7.3.3R</i> and <i>MCOB 7.6.7R – MCOB 7.7.4G</i> apply to a <i>mortgage adviser</i>; and</p> <p>(4) <i>MCOB 7.1 – MCOB 7.3.3R</i> and <i>MCOB 7.6.7R – MCOB 7.7.4G</i> apply to a <i>mortgage arranger</i>;</p> <p>In relation to <i>regulated lifetime mortgage contracts</i>, <i>MCOB 7</i> is replaced by <i>MCOB 9</i> (Lifetime mortgages: product disclosure).</p>
<i>MCOB 8</i> (Lifetime mortgages: advising and selling standards)	<p>The whole chapter except for <i>MCOB 8.5</i> applies to a <i>mortgage lender</i>;</p> <p>The whole chapter applies to a <i>mortgage adviser</i>;</p> <p>The whole chapter except for <i>MCOB 8.5</i> applies to a <i>mortgage arranger</i>.</p>
<i>MCOB 9</i> (Lifetime mortgages: product disclosure)	<p><i>MCOB 9.1-9.7</i> applies to a <i>mortgage lender</i>;</p> <p><i>MCOB 9.1-9.4</i> and <i>MCOB 9.8</i> apply to a <i>mortgage administrator</i>;</p> <p><i>MCOB 9.1-9.4</i> applies to a <i>mortgage adviser</i></p> <p><i>MCOB 9.1-9.4</i> applies to a <i>mortgage arranger</i>.</p>
<i>MCOB 10</i> (Annual percentage rate)	<p>The whole chapter applies to a <i>firm</i> which, under <i>rules</i> elsewhere in <i>MCOB</i>, is required to calculate an <i>annual percentage rate of charge (APR)</i>.</p>
<i>MCOB 11</i> (Responsible lending)	<p>The whole chapter applies to a <i>mortgage lender</i> when it</p>

Chapter	Who does the chapter apply to?
	<i>enters into</i> or makes a further advance on a <i>regulated mortgage contract</i> with a <i>customer</i> .
MCOB 12 (Charges)	<p>(1) The whole chapter applies to a <i>mortgage lender</i> when it carries on a <i>regulated mortgage activity</i>;</p> <p>(2) MCOB 12.1, MCOB 12.2 and MCOB 12.5.2R apply to a <i>mortgage adviser</i> and a <i>mortgage arranger</i>;</p> <p>(3) MCOB 12.1, MCOB 12.2, MCOB 12.4 and MCOB 12.5.2R apply to a <i>mortgage administrator</i> and a <i>firm</i> that was a <i>mortgage lender</i> or <i>mortgage administrator</i> before the sale of a <i>repossessed</i> property.</p>
MCOB 13 (Arrears and repossessions)	<p>(1) The whole chapter applies to a <i>mortgage administrator</i> and a <i>firm</i> that was the <i>mortgage administrator</i> before the sale of a <i>repossessed</i> property.</p> <p>(2) MCOB 13.1-13.3 (except MCOB 13.3.9R and MCOB 13.3.10G) apply to a <i>mortgage lender</i> and a <i>firm</i> that was the <i>mortgage lender</i> before the sale of a <i>repossessed</i> property</p>

MCOB 1: Application and purpose

Annex 4G

Summary of the application of the Handbook to firms carrying on regulated mortgage activities and firms that communicate or approve qualifying credit promotions

- 1 Table
- 2 This table belongs to *MCOB 1.4.1G*

[Note: Handbook modules marked with an asterisk will be amended to take account of the introduction of mortgage regulation. The relevant amendments will take effect on 31 October 2004].

	Module	Application
High Level Standards	General provisions, <i>GEN</i> [*]	Applies (at least in part) to every <i>mortgage adviser, mortgage administrator, mortgage arranger</i> and <i>mortgage lender</i> ; and also to every <i>firm</i> which <i>communicates</i> or <i>approves qualifying credit promotions</i> .
	Principles for Businesses, <i>PRIN</i>	
	Threshold Conditions, <i>COND</i>	
	Statements of Principle and Code of Practice for Approved Persons, <i>APER</i>	Applies to every <i>approved person</i> who performs a <i>controlled function</i> under an <i>arrangement</i> entered into by a <i>mortgage administrator, mortgage adviser, mortgage arranger</i> or <i>mortgage lender</i> ; or by a <i>firm</i> which <i>communicates</i> or <i>approves qualifying credit promotions</i> .
	The Fit and Proper test for Approved Persons, <i>FIT</i>	Applies to every <i>firm</i> including <i>mortgage administrator, mortgage adviser, mortgage arranger</i> and <i>mortgage lender</i> in respect of any application that it makes for the approval of a <i>person</i> to perform a <i>controlled function</i> .
	Senior management arrangements, Systems and Controls, <i>SYSC</i>	Applies to every <i>mortgage administrator, mortgage adviser, mortgage arranger</i> and <i>mortgage lender</i> and also to <i>firms</i> which <i>communicate</i> or <i>approve qualifying credit promotions</i> .

Business Standards	Interim Prudential Sourcebooks,	
	<i>IPRU (BANK)</i>	<ul style="list-style-type: none"> ▪ Applies to every <i>mortgage administrator, mortgage adviser, mortgage arranger and mortgage lender</i> where they are also banks;
	<i>IPRU (BSOC)</i>	<ul style="list-style-type: none"> • Applies to every <i>mortgage administrator, mortgage adviser, mortgage arranger and mortgage lender</i> where they are also building societies;
	<i>IPRU (FSOC)</i>	<ul style="list-style-type: none"> • Applies to every <i>mortgage administrator, mortgage adviser, mortgage arranger and mortgage lender</i> where they are also friendly societies;
	<i>IPRU (INS)</i>	<ul style="list-style-type: none"> • Applies to every <i>mortgage administrator, mortgage adviser, mortgage arranger and mortgage lender</i> where they are also insurers;
	<i>IPRU (INV)</i>	<ul style="list-style-type: none"> • Applies to every <i>mortgage administrator, mortgage adviser, mortgage arranger and mortgage lender</i> where they are also <i>investment firms</i>;
	<i>[PRU 9.2]</i>	<ul style="list-style-type: none"> • <i>[Applies to mortgage adviser and mortgage arranger where they are also a firm carrying on insurance mediation activities.]</i>
	<i>[PRU 9.3]</i>	<ul style="list-style-type: none"> ▪ <i>[Applies to mortgage adviser, mortgage administrator, mortgage arranger and mortgage lender where they are also a firm carrying on insurance mediation activities.]</i>
	<i>[PRU 9.4]</i>	<ul style="list-style-type: none"> ▪ <i>[Applies to mortgage adviser and mortgage arranger where they are also a firm carrying on insurance mediation activities.]</i>

Market conduct, <i>MAR</i>	<p>Does not apply to a <i>mortgage administrator, mortgage adviser, mortgage arranger or mortgage lender</i> when <i>entering into or administering regulated mortgage contracts</i>, or when <i>communicating or approving qualifying credit promotions</i>. However, certain chapters of <i>MAR</i> apply to any such <i>firm</i> if:</p> <p>(a) it also engages in <i>behaviour</i> in relation to <i>qualifying investments</i> traded on <i>prescribed markets</i> then <i>MAR 1</i> applies;</p> <p>(b) it undertakes or is concerned with offers of securities that may involve price stabilising activity then <i>MAR 2</i> applies;</p> <p>(c) it carries on <i>inter-professional business</i> - then <i>MAR 3</i> applies;</p> <p>(d) it carries on <i>designated investment business</i> - then <i>MAR 4</i> applies.</p>
Conduct of Business sourcebook, <i>COB</i> [*]	<p>Does not apply to a <i>firm</i> when <i>entering into or administering a regulated mortgage contract</i>, or when <i>communicating or approving qualifying credit promotions</i>. However, <i>COB</i> may apply to any such <i>firm</i> if it also carries on any other <i>regulated activity</i> and/or <i>communicates or approves financial promotions</i> not relating to <i>qualifying credit</i>. The requirements of <i>COB 3 (Financial Promotion)</i> do not apply to <i>qualifying credit promotions</i>.</p>
Training and Competence sourcebook, <i>TC</i> [*]	<p><i>TC1</i> applies when a <i>firm</i> <i>advises on, arranges, enters into or administers regulated mortgage contracts</i> or when it <i>communicates or approves qualifying credit promotions</i>. <i>TC2</i> applies only in circumstances where a <i>firm</i> has <i>employees</i> engaging in or overseeing other activities – as listed in <i>TC 2.1.4R</i>.</p>
Money Laundering sourcebook, <i>ML</i> [*]	<p>Applies to every <i>mortgage administrator</i> and <i>mortgage lender</i>. This includes in circumstances where the <i>mortgage administrator</i> is appointed by a <i>person</i> who is not an <i>authorised person</i> to administer <i>regulated mortgage contracts</i> on its behalf.</p>
Client asset sourcebook, <i>CASS</i>	<p>Does not apply to mortgage <i>firms</i>.</p>

Regulatory processes	<p>Authorisation manual, <i>AUTH</i> [*]</p>	<p>Applies to:</p> <ol style="list-style-type: none"> (1) a <i>person</i>, other than an <i>authorised person</i>, considering carrying on the <i>regulated activities</i> of <i>mortgage administrator, mortgage adviser, mortgage arranger and mortgage lender</i> in the <i>United Kingdom</i>, and who require <i>guidance</i> on whether <i>authorisation</i> is required and, if so, how to apply to the <i>FSA</i> for <i>Part IV permission</i>; (2) an <i>EEA firm</i> or a <i>Treaty firm</i> that wishes to establish a <i>branch</i> or provide <i>cross border services</i> into the <i>United Kingdom</i> in relation to <i>mortgage lending</i> or wishes to apply for a <i>top-up permission</i> that includes <i>mortgage lending</i>; (3) a <i>person</i> wishing to obtain approval for <i>persons performing controlled functions</i> in relation to <i>mortgage lending</i> and in conjunction with an application for <i>Part IV permission</i>; and (4) a <i>person</i> wishing to understand how the <i>FSA</i> will use its powers in relation to <i>authorisation</i> to determine applications.
	<p>Supervision manual, <i>SUP</i> [*]</p>	<p>The following chapters of <i>SUP</i> apply to every <i>mortgage administrator, mortgage adviser, mortgage arranger and mortgage lender</i>, and also to <i>firms</i> which <i>communicate</i> or <i>approve qualifying credit promotions</i>: 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 15, 16, 20.</p> <p>The following chapters of <i>SUP</i> do not apply to a <i>mortgage administrator, mortgage adviser, mortgage arranger and mortgage lender</i>; or to a <i>firm</i> which <i>communicates</i> or <i>approves qualifying credit promotions</i> unless it carries on other activities: 4, 12, 13, 14, 17, 18, 19</p>
	<p>Enforcement manual, <i>ENF</i> [*]</p>	<p>Potentially relevant for every <i>mortgage administrator, mortgage adviser, mortgage arranger and mortgage lender</i> and <i>firms</i> which <i>communicate</i> or <i>approve qualifying credit promotions</i> and gives guidance on the use of <i>FSA</i>'s enforcement powers.</p>

	Decision making manual, <i>DEC</i>	Potentially relevant for every <i>mortgage administrator, mortgage adviser, mortgage arranger and mortgage lender</i> and <i>firms which communicate or approve qualifying credit promotions</i> and gives guidance on the use of <i>FSAs</i> enforcement powers.
Redress	Dispute Resolution: Complaints, <i>DISP</i> [*]	Applies to every <i>mortgage administrator, mortgage adviser, mortgage arranger and mortgage lender</i> ; and also to <i>firms which communicate or approve qualifying credit promotions</i> .
	Compensation, <i>COMP</i> [*]	The <i>regulated mortgage activities</i> which are covered by the <i>compensation scheme</i> are: (1) <i>advising on</i> , or (2) <i>arranging regulated mortgage contracts</i> ; or (3) <i>agreeing to carry on the regulated activities</i> in (1) to (2) ; or (4) the activities of a <i>mortgage lender</i> which would be <i>arranging</i> but for article 28A of the <i>Regulated Activities Order</i> (Arranging contracts to which the arranger is a party).
Specialist sourcebooks	Credit unions, <i>CRED</i>	Applies to every <i>mortgage administrator, mortgage lender</i> , and to <i>firms that communicate or approve qualifying credit promotions</i> where they are <i>credit unions</i> and have a <i>Part IV permission to accept deposits</i> .
	Electronic Commerce Directive, <i>ECO</i> [*]	Applies to a <i>firm</i> which carries on an <i>electronic commerce activity</i> .
	Electronic money, <i>ELM</i> [*]	Applies to every <i>firm</i> that issues <i>E- money</i> .
	Professional firms, <i>PROF</i> [*]	Applies to every <i>mortgage administrator, mortgage adviser, mortgage arranger and mortgage lender</i> and to <i>firms that communicate or approve qualifying credit promotions</i> where they are <i>professional firms</i> .
	Lloyd's sourcebook. <i>LLD</i>	Applies only to the <i>Society</i> but some requirements are relevant to <i>mortgage administrator, mortgage adviser, mortgage arranger and mortgage lender</i> and to <i>firms that communicate or approve qualifying credit promotions</i> where they are also <i>underwriting agents</i> .

	Collective Investment Scheme sourcebook, <i>CIS</i>	Applies to every <i>mortgage administrator, mortgage adviser, mortgage arranger and mortgage lender</i> and to <i>firms that communicate or approve qualifying credit promotions</i> where they are also an <i>operator</i> or a <i>depository</i> of an <i>ICVC</i> or certain other <i>Collective Investment Schemes</i> .
	Recognised Investment Exchanges and Recognised Clearing Houses, <i>REC</i>	Does not apply to <i>mortgage administrator, mortgage adviser, mortgage arranger and mortgage lender</i> , or to <i>firms that communicate or approve qualifying credit promotions</i> .

2 CONDUCT OF BUSINESS STANDARDS: GENERAL

2.1 Application:

Who?

2.1.1 R This chapter applies to a *firm* in a category listed in column (1) of the table in *MCOB 2.1.2R* in accordance with column (2) of that table.

2.1.2 R Table

This table belongs to *MCOB 2.1.1R*

(1) Category of firm	(2) Applicable section
<i>mortgage lender</i> <i>mortgage administrator</i> <i>mortgage adviser</i> <i>mortgage arranger</i>	whole chapter
a <i>firm</i> that <i>communicates</i> or <i>approves</i> a <i>qualifying credit promotion</i>	<i>MCOB 2.5, 2.6, 2.7 and 2.8</i>

What?

2.1.3 R This chapter applies in relation to:

- (1) *regulated mortgage activities*;
- (2) those activities in *MCOB 12* and *MCOB 13* that are carried on after a *regulated mortgage contract* has come to an end following the sale of a *repossessed property*; and
- (3) the *communication* or *approval* of a *qualifying credit promotion*.

2.2 Communications

Purpose

2.2.1 G The purpose of *MCOB 2.2* is to restate, in slightly amended form, and as a separate *rule*, the part of *Principle 7* (Communications with clients) that relates to communication of information. This enables a *customer*, who is a *private person*, to bring an action for damages under section 150 (Contravention of rules) of the *Act* to recover loss resulting from a *firm* that carries on the activities referred to in *MCOB 2.1.3R* communicating information, in the course of those activities, in

a way that is not clear or fair, or that is misleading. *MCOB 2.2* also clarifies the expectations of the *FSA* where any *rule* requires the provision of information and there are two or more *customers*.

General

- 2.2.2 G In many circumstances there will be two or more *customers* under any *regulated mortgage contract*, or two or more prospective *customers* looking to enter into the same *regulated mortgage contract*. In such circumstances, where a *rule* in *MCOB* requires the provision of information to such *customers* and the *customers* have different addresses, a *firm* sending out this information should send it 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*.

Prescribed terms

- 2.2.3 R **In any communication to a *customer*, a *firm* must:**
- (1) describe any *early repayment charge* as an ‘early repayment charge’ and not use any other expression to describe such charges;
 - (2) describe any *higher lending charge* as a ‘higher lending charge’ and not use any other expression to describe such charges; and
 - (3) describe any *regulated lifetime mortgage contract* as a ‘lifetime mortgage’ and not use any other expression to describe such a mortgage or omit that description from the name given to any product that meets the definition.

‘Key facts’ logo

- 2.2.4 R **In *MCOB*, a *firm* must only use the ‘key facts’ logo where it is required by a *rule*.**

Related investment advice

- 2.2.5 G *Firms* are reminded that they should follow the relevant rules in *COB 5* and *COB 6* relating to advice and disclosure on *investments* if they are *advising* the *customer* on an *investment* (such as an *ISA*) as a *repayment vehicle*.

Clear, fair and not misleading communications

- 2.2.6 R (1) **When a *firm* communicates information to a *customer*, it must take reasonable steps to communicate in a way that is clear, fair and not misleading.**

(2) Paragraph (1) does not apply to a *firm* when it communicates a *qualifying credit promotion* in circumstances in which *MCOB 3 (Financial promotion)* applies to the *firm*.

- 2.2.7 G When considering how to comply with the requirements of *MCOB 2.2.6R*, a *firm* should have regard to the *customer's* knowledge of the *regulated mortgage contract* to which the information relates.
- 2.2.8 G *MCOB 2.2.6R* covers all communications with *customers*, for example any oral or written statements, telephone calls and any correspondence which is not a *qualifying credit promotion* to which *MCOB 3 (Financial promotion)* applies. In respect of *qualifying credit promotions*, *firms* should note the separate requirements of *MCOB 3*.
- 2.2.9 G Prominence of relevant information can play a key role in ensuring that a communication is clear, fair and not misleading. Where this is the case, the *firm* should consider prominence in the context of the communication as a whole. Use can be made of the positioning of text, background and text colour and type size to ensure that specified information meets the requirements of *MCOB*.

2.3 Inducements

Purpose

- 2.3.1 G *Principles 1 and 6* require a *firm* to conduct its business with integrity, to pay due regard to the interests of its *customers* and to treat them fairly. The purpose of *MCOB 2.3* is to ensure that a *firm* does not conduct business under arrangements that might give rise to a conflict with its duty to *customers* or to unfair treatment of them.

Prohibition of inducements

- 2.3.2 R **A *firm* must take reasonable steps to ensure that it, and any *person* acting on its behalf, does not:**

- (1) offer, give, solicit or accept an inducement; or**
- (2) direct or refer any actual or potential business in relation to a *regulated mortgage contract* to another *person* on its own initiative or on the instructions of an *associate*;**

if it is likely to conflict to a material extent with any duty that the *firm* owes to its *customers* in connection with a *regulated mortgage contract* or any duty which such a recipient *firm* owes to its *customers* in connection with a *regulated mortgage contract*.

- 2.3.3 G An inducement is a benefit offered with a view to bringing about a particular course of action.

- 2.3.4 G The purpose of *MCOB* 2.3.2R(2) is to prevent the requirement in *MCOB* 2.3.2R(1) being circumvented by an inducement being given or received by an unregulated *associate*. There may be circumstances, however, where a *firm* is able to demonstrate that it could not reasonably have knowledge of an *associate* giving or receiving an inducement. It should not, however, direct business to another *person* on the instruction of an *associate* if this is likely to conflict with the interests of its *customers*.
- 2.3.5 G *MCOB* 2.3.2R does not prevent a *firm*:
- (1) assisting a *mortgage intermediary* so that the quality of the *mortgage intermediary's* service to *customers* is enhanced; or
 - (2) giving or receiving indirect benefits (such as gifts, hospitality and promotional competition prizes);
- providing in either case this is not likely to give rise to a conflict with the duties that the recipient owes to the *customer*. In particular, such benefits should not be of a kind or value that is likely to impair the ability of a *firm* to act in compliance with any *rule* in *MCOB*, for example the suitability requirements in *MCOB* 4.7 (Advised sales).
- 2.3.6 R **A *firm* must not operate a system of giving or offering inducements to a *mortgage intermediary* or any other third party whereby the value of the inducement increases if the *mortgage intermediary* or third party, such as a packager, exceeds a target set for the amount of business referred (for example, a volume override).**
- Quantification of inducements**
- 2.3.7 R (1) **A *mortgage lender* must quantify, in cash terms, any material inducement it offers to a *mortgage intermediary* or a third party.**
- (2) **In quantifying the value of the material inducement, the *firm* must include any subsequent payments (such as a trail fee) made where the *customer* continues with the same regulated *mortgage contract*.**
- 2.3.8 G (1) Quantification of any material inducement offered by the *mortgage lender* supports the disclosure requirements elsewhere in *MCOB*. Further *guidance* on the disclosure of any inducement in cash terms is provided in *MCOB* 5.6.118G.
- (2) A payment made to a third party unconnected with the *mortgage intermediary*, where that payment only reflects the cost of outsourcing work relating to the processing of mortgage applications, would not be considered an inducement in the context of *MCOB* 2.3.7R.

2.4 High pressure sales

Purpose

- 2.4.1 G The purpose of *MCOB 2.4* is to remind *firms* of the relevance of the high level standards in *PRIN*, especially with regard to the use of sales methods that may lead a *customer* to feel pressurised to enter into, or vary, a *regulated mortgage contract*.

Fair treatment

- 2.4.2 G *Principle 6* (Customers' interests) requires that a *firm* must pay due regard to the interests of its *customers* and treat them fairly. This means, for example, that a *firm* should avoid selling practices that commit *customers* (or lead *customers* to believe that they are committed) to any *regulated mortgage contract* before they have been able to consider the *illustration* and *offer document*. One such practice might be to present a new *customer* with an *illustration*, *offer document* and mortgage deed at one time and to require the mortgage deed to be signed on the same occasion (when there is no urgent need to do so).

Information

- 2.4.3 G *Principle 7* (Communications with clients) requires that a *firm* must pay due regard to the information needs of its *clients*, and communicate information to them in a way which is clear, fair and not misleading. This means, for example, that a *firm* should avoid giving any *customer* a false impression about the availability of a *regulated mortgage contract*, such as describing it as a 'special offer' not available after a certain date unless this is really the case.

2.5 Reliance on others

Purpose

- 2.5.1 G *Principle 2* requires a *firm* to conduct its business with due skill, care and diligence. *MCOB 2.5* indicates the extent to which *firms* that carry on *regulated mortgage activities* and that *communicate* or *approve* a *qualifying credit promotion* can meet this requirement by relying on others.

When firms can rely on others

- 2.5.2 R A *firm* will be taken to be in compliance with any *rule* in *MCOB* that requires a *firm* to obtain information to the extent that the *firm* can show that it was reasonable for it to rely on information provided to it by another *person*.

- 2.5.3 E (1) In relying on *MCOB 2.5.2R*, a *firm* should take reasonable steps to establish that the other *person* providing the information is:
- (a) not connected with the *firm*; and
 - (b) competent to provide the information.
- (2) Compliance with (1) may be relied on as tending to establish compliance with *MCOB 2.5.2R*.
- (3) Contravention of (1) may be relied on as tending to establish contravention of *MCOB 2.5.2R*.
- 2.5.4 R (1) Any information which a *rule* in *MCOB* requires to be sent to a *customer* may be sent to another *person* on the instruction of the *customer*, so long as the recipient is not connected with the *firm*.
- (2) There is no need for a *firm* to send information to a *customer* where it has taken reasonable steps to establish that this has been or will be supplied by another *person*.
- 2.6 Exclusion of liability
- Purpose
- 2.6.1 G *Principle 6* (Customers' interests) requires a *firm* to pay due regard to the interests of its *customers* and treat them fairly. A *firm* may not exclude the duties it owes or the liabilities it has to a *customer* under the *regulatory system*. It may exclude other duties and liabilities only if it is reasonable for it to do so.
- Limits on the exclusion of liability
- 2.6.2 R A *firm* must not, in any written or oral communication, seek to exclude or restrict, or to rely on any exclusion or restriction of, any duty or liability it may have to a *customer* under the *regulatory system*.
- 2.6.3 R A *firm* must not, in any written or oral communication to a *customer*, seek to exclude or restrict, or to rely on any exclusion or restriction of, any duty or liability not referred to in *MCOB 2.6.2R* unless it is reasonable for it to do so.
- 2.7 Application to electronic media and distance communications
- 2.7.1 G *GEN 2.2.14R* (References to writing) has the effect that electronic media may be used to make communications that are required by the *Handbook* to be 'in writing' unless a contrary intention appears. In *MCOB*, the use of an electronic medium is restricted in certain

circumstances to a *durable medium* as required by the *Distance Marketing Directive*.

Additional guidance in respect of electronic communication with or for customers

- 2.7.2 G For any electronic communication with a *customer* in relation to a *regulated mortgage contract*, a *firm* should:
- (1) have in place appropriate arrangements, including contingency plans, to ensure the secure transmission and receipt of the communication; it should also be able to verify the authenticity and integrity of the communication together with the date and time sent and received; the arrangements should be proportionate and take into account the different levels of risk in a *firm's* business;
 - (2) be able to demonstrate that the *customer* wishes to communicate using this medium; and
 - (3) if entering into an agreement, make it clear to the *customer* that a contractual relationship is created that has legal consequences.

- 2.7.3 G A *firm* should note that *GEN 2.2.14R* (References to writing) does not affect any other legal requirement that may apply in relation to the form or manner of *executing a document* or agreement.

General provisions related to distance contracts

- 2.7.4 R **During the course of a *distance contract* with a *retail customer*, the making or performance of which constitutes or is part of a *regulated mortgage contract*:**
- (1) **the *firm* must, at the *retail customer's* request, provide a paper copy of the contractual terms and conditions of the *regulated mortgage contract* or of the services being provided by the *firm*; and**
 - (2) **the *firm* must comply with the *customer's* request to change the *means of distance communication* used, unless this is incompatible with the *regulated mortgage contract* or service being provided by the *firm*.**

2.8 Record keeping

Purpose

- 2.8.1 G *MCOB 2.8* provides details of the standard expected of *firms* where there is an obligation in *MCOB* requiring *firms* to maintain adequate records to evidence compliance. An overall view of the record keeping requirements in *MCOB* is in *MCOB* Schedule 1.

Accessibility of records

- 2.8.2 R **The records required in *MCOB* must be readily accessible for inspection by the *FSA*.**
- 2.8.3 G A record would be “readily accessible” if it were available for inspection within two *business days* of the request being received.
- 2.8.4 G (1) A *firm* may arrange for records to be kept in such form as it chooses, provided the record is readily accessible for inspection by the *FSA*.
- (2) Where a *firm* chooses to maintain records in electronic form, it should take reasonable steps to ensure that:
- (a) the electronic record accurately reflects the original information; and
 - (b) the electronic record has not been subject to unauthorised or accidental alteration.
- 2.8.5 G Each *rule* in *MCOB* that requires a record also sets out a period that the record must be kept for. While not a requirement of *MCOB*, *firms* may choose to keep records for longer periods, for example, where there is the possibility of *customer* complaint or legal action against the *firm*.

3 FINANCIAL PROMOTION

- 3.1 Application: who?**
- 3.1.1 R This chapter applies to every *firm* which *communicates or approves a qualifying credit promotion*.**
- 3.1.2 G This chapter applies generally to *firms* in relation to all *qualifying credit promotions*. This wide application is however cut back by *MCOB 3.2* (Application: what?) and *MCOB 3.3* (Application: where?) which limit the application of this chapter for:
- (1) *qualifying credit promotions* which would fall within the scope of the exemptions in the *Financial Promotion Order* or the additional exemptions set out in *MCOB 3.2.5R* (Applications: what? Exemptions); and
 - (2) *qualifying credit promotions to persons outside the United Kingdom*.
- 3.1.3 G *MCOB 3.1.1R* means that:
- (1) this chapter applies not only to *financial promotions for regulated mortgage contracts*, but also to *promotions for qualifying credit*; and
 - (2) this chapter applies to all aspects of a promotion by a *firm* of products which combine *unsecured* and *secured lending*.
- 3.1.4 G In relation to *MCOB 3.1.3G(2)*, an example would be a promotion for a mortgage product, one feature of which was an *unsecured lending* facility or reserve.
- 3.1.5 G Under section 39(3) of the *Act*, a *firm* is responsible for *financial promotions communicated* by its *appointed representatives* when acting as such.
- 3.1.6 R This chapter does not apply to a *firm* in relation to the communication or approval of a *financial promotion* that is not a *qualifying credit promotion* (but see *COB 3* (Financial Promotion)).**
- 3.1.7 G A *communication* may contain both a *financial promotion* and a *qualifying credit promotion*, for example a building society leaflet which describes the range of mortgage and savings products it provides. In such cases, both *MCOB 3* and *COB 3* will be relevant.
- 3.1.8 G As a result of articles 90 and 91 of the *Regulated Activities Order*:

- (1) a *qualifying credit promotion* is not subject to the advertising provisions of the Consumer Credit Act 1974, unless it is an *exempt generic promotion*; and
- (2) where a *firm* makes a *communication*, which consists of a *qualifying credit promotion* and information relating to 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 the relevant advertising provisions of the Consumer Credit Act 1974.

Authorised professional firms

- 3.1.9 R (1) Except for *MCOB 3.6.17R – MCOB 3.6.25R* (Annual percentage rate (APR)), *MCOB 3* does not apply to an *authorised professional firm* in relation to the *communication of a qualifying credit promotion* if the following conditions are satisfied:
- (a) the *firm's* main business must be the practice of its profession (see *IPRU (INV) 2.1.2R(3)*);
 - (b) the *qualifying credit 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 *qualifying credit promotion* must not be *communicated* on behalf of another person who would not be able lawfully to *communicate* the *qualifying credit promotion* if he were acting in the course of business.
- (2) 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*.
- 3.1.10 G *Authorised professional firms* are reminded that in circumstances in which *MCOB 3* does not apply to the firm *MCOB 2.2.6R* (Clear fair and not misleading communication) may apply.

Nationals of other EEA states

- 3.1.11 G A national of an *EEA State* (other than the *United Kingdom*) wishing to take advantage of the exemption in article 36 of the *Financial Promotion Order* in respect of a *qualifying credit promotion* should act in conformity with the rules in this chapter.

Illustrative examples of qualifying credit promotions

- 3.1.12 G *MCOB 3 Ann 1G* gives examples of *qualifying credit promotions* that would satisfy some of the provisions of *MCOB 3*.

3.2 Application: what?

What do “communicate”, “approve” and “financial promotion” mean?

- 3.2.1 G (1) The *rules* in this chapter adopt various concepts from the restriction on *financial promotion* by *unauthorised persons* in section 21(1) of the *Act* (Restrictions on financial promotion). *Guidance* on that restriction is contained in *AUTH App 1* (Financial promotion and related activities) and that *guidance* will be relevant to interpreting these *rules*. In particular, *guidance* on the meaning of:
- (a) “*communicate*” is in *AUTH App 1.6* (Communicate); and
 - (b) “invitation or inducement” and “*engage in investment activity*” (two elements which, with “*communicate*”, make up the definition of “*financial promotion*”) is in *AUTH App 1.4* (Invitation or inducement) and *AUTH App 1.7* (Engage in investment activity).
- (2) *Guidance* on the *approval* of a *qualifying credit promotion* is in *MCOB 3.11.1G* (Approval of qualifying credit promotions).

Media of communication

- 3.2.2 G (1) There is no restriction on the media of *communication* to which this chapter applies. It applies to a *qualifying credit promotion communicated* by any means, including by way of printed advertising, radio and television broadcasts, a personal visit, a telephone call, an e-mail, the Internet and electronic media such as digital and other forms of interactive television or media. Both solicited and unsolicited *communications* are covered.

- (2) *Qualifying credit promotions* may be *communicated* for example, by means of:
- (a) product brochures;
 - (b) general advertising in magazines, newspapers, radio and television programmes and websites;
 - (c) mailshots (whether distributed by post, facsimile, e-mail or other media);
 - (d) telemarketing activities, such as telephone calls made by call centres;
 - (e) written correspondence, telephone calls and face to face discussions with *customers*;
 - (f) sales aids which themselves constitute a *qualifying credit promotion*;
 - (g) presentations to groups of *customers*; and
 - (h) other publications, which may contain non-*personal recommendations* as to obtaining *qualifying credit*.

3.2.3 G *Guidance* on the use of the Internet for *communicating qualifying credit promotions* is in *AUTH* App 1.22 (The Internet).

Exemptions

3.2.4 R **This chapter does not apply to a *firm* in relation to a *qualifying credit promotion* of a kind listed in *MCOB 3.2.5R*, except that if the *firm* approves the *qualifying credit promotion*, the following apply:**

- (1) ***MCOB 3.1 to MCOB 3.5* (Application, Purpose and General);**
- (2) ***MCOB 3.6.3R* (Non-real time qualifying credit promotions: clear, fair and not misleading);**
- (3) ***MCOB 3.11.1G to MCOB 3.11.4G* (Approval of *qualifying credit promotions*; No approval of real time qualifying credit promotions; Approval of *real time qualifying credit promotions* when not all the rules apply); and**
- (4) **if the *firm* approves a non-real time qualifying credit promotion relating to *qualifying credit* by an overseas person *MCOB 3.11.5R* (Non-real time qualifying credit promotions for overseas persons) applies.**

3.2.5

R This table belongs to *MCOB 3.2.4R*.

Exemptions	
This chapter does not apply to the following:	
(1)	an <i>illustration</i> produced in accordance with the requirements of <i>MCOB 5</i> <i>MCOB 6</i>, <i>MCOB 7</i> or <i>MCOB 9</i>;
(2)	a <i>qualifying credit promotion</i> which contains only one or more of the following:
(a)	the name of the <i>firm</i> (or its <i>appointed representative</i>);
(b)	a logo;
(c)	a contact point (address (including an e-mail address), telephone or facsimile number);
(d)	a brief, factual statement of the <i>firm</i>'s (or its <i>appointed representative</i>'s) main occupation;
(3)	a <i>qualifying credit promotion</i> which can lawfully be communicated by an <i>unauthorised person</i> without approval;
(4)	a <i>qualifying credit promotion</i> communicated from outside the <i>United Kingdom</i> which would be exempt under articles 30, 31, 32 or 33 of the <i>Financial Promotion Order</i> (Overseas communicators) if the office from which the <i>qualifying credit promotion</i> is communicated were a separate <i>unauthorised person</i> (but see <i>GEN 4.4.1R</i> (Business for private customers from non-UK offices));

3.2.6

G *MCOB 3.2.5R(2)* exempts a *qualifying credit promotion* made by a *firm* or an *appointed representative* which refers to its activities only in general terms in image or brand advertising. The items identified in *MCOB 3.2.5R(2)* do not enable detailed information to be given about the *qualifying credit* available from the *firm*. Thus *firms* should avoid the use of names, logos or addresses, for example, which attempt to convey additional mortgage or cost-related information.

Combination of exemptions

3.2.7

R A *firm* may rely on more than one exemption (and also on *MCOB 3.3.1R* (Application: where?)) in relation to the same *qualifying credit promotion*.

Other handbook rules relevant to qualifying credit promotions

- 3.2.8 G *Firms* are reminded that *qualifying credit promotions* (including those which are exempt) may be subject to more general *rules*, including *Principle 7* (Communications with clients), *SYSC 3* (Systems and controls) and *MCOB 2.2.6* (Clear, fair and not misleading communication).
- 3.2.9 G *Firms* are reminded that if in the course of making a *qualifying credit promotion* of any kind an adviser gives specific *advice* on *regulated mortgage contracts* to a *customer* about the suitability of a product for that individual, the adviser in giving the *advice* is subject to the *rules*, as appropriate, on advising and selling in *MCOB 4* (Advising and selling standards) and *MCOB 8* (Lifetime mortgages: advising and selling standards).
- 3.3 **Application: where?**
- Territorial scope**
- 3.3.1 R **This chapter applies to a *firm* only in relation to:**
- (1) **the *communication of a qualifying credit promotion to a person inside the United Kingdom*;**
 - (2) **the *communication of an unsolicited real time qualifying credit promotion, unless*:**
 - (a) **it is made from a place outside the *United Kingdom*; and**
 - (b) **it is made for the purposes of a business which is carried on outside the *United Kingdom* and which is not carried on in the *United Kingdom*; and**
 - (3) **the approval of a *non-real time qualifying credit promotion for communication to a person inside the United Kingdom*;**
- subject to *MCOB 3.3.3R* (Exceptions to territorial scope: rules without territorial limitation) and *MCOB 3.3.5* (Exceptions to territorial scope: distance contracts).**
- 3.3.2 G (1) The application under *MCOB 3.3.1R* is relevant both when a *firm communicates a qualifying credit promotion* itself and when a *firm approves a non-real time qualifying credit promotion for communication* by others. But see also *MCOB 3.3.3R* (Exceptions to territorial scope: rules without territorial limitation) regarding *approvals*.

- (2) The exemptions in *MCOB 3.2.5R* (Application: what?; Exemptions) also incorporate some territorial elements. In particular, the exemption for *financial promotions* originating outside the *United Kingdom* (section 21(3) of the *Act* (Restrictions on financial promotion)) (see *MCOB 3.2.5R(4)*) and the exemptions for overseas communicators (see *MCOB 3.2.5R(4)*) and the exemption for incoming *electronic commerce communications* (see *AUTH App 1.12.38G* (Incoming electronic commerce communication (article 20B))).
- (3) In the context of the provision of an *electronic commerce activity* to an *EEA ECA recipient*, the scope of *MCOB 3* is extended by *ECO 2.2.3R* (Financial promotion). This means that *MCOB 3* will apply for *communications to EEA ECA recipients*.

Exceptions to territorial scope: rules without territorial limitation

3.3.3 R Subject to *MCOB 3.3.5R* the following parts of this chapter apply without any territorial limitation if a *firm* approves a *qualifying credit promotion*:

- (1) ***MCOB 3.1* to *MCOB 3.5* (Application, Purpose and General);**
- (2) ***MCOB 3.6.3R(1)* (Non-real time qualifying credit promotions: clear, fair and not misleading); and**
- (3) ***MCOB 3.11.1R* to *MCOB 3.11.4G* (Approval of qualifying credit promotions; No approval of real time qualifying credit promotions; Approval of real time qualifying credit promotions when not all the rules apply).**

3.3.4 G There is no need for a *qualifying credit promotion* which is indicated in *MCOB 3.3.1R* to be outside the territorial scope of the application of *MCOB 3* to be *approved* before being *communicated* by an *unauthorised person* (because the restriction in section 21 of the *Act* (Restrictions on financial promotion) does not apply). If a *firm* nevertheless *approves* such a *qualifying credit promotion*, it must comply with the *rules* indicated in *MCOB 3.3.3R*. However, a *firm* must not *approve* a *real time qualifying credit promotion* (see *MCOB 3.11.2R* (No approval of real time qualifying credit promotions)).

Exceptions to territorial scope: distance contracts

3.3.5 R (1) Notwithstanding *MCOB 3.3.1R* and *MCOB 3.3.3R*, where a *firm* which satisfies the conditions in (2)

communicates a qualifying credit promotion, the rules in (3) do not apply.

- (2) The conditions are that:
- (a) *the firm communicates the qualifying credit promotion 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 *DMD*; or
 - (ii) has obligations in its domestic law corresponding to those provided for by the *DMD*;
 - (c) *the qualifying credit promotion relates, exclusively, to a distance contract, for the conclusion of which the obligations provided for by the DMD (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 48 of the Treaty.*
- (3) The *rules* which do not apply are:
- (a) *MCOB 3.6.1R (Non-real time qualifying credit promotions: name and contact point);*
 - (b) *MCOB 3.6.13R (Required risk statements);*
 - (c) *MCOB 3.6.15R (Transient advertising);*
 - (d) *MCOB 3.6.26R (Multi-rate mortgages);*
 - (e) *MCOB 3.6.27R (Fees for advice or arranging); and*
 - (f) *MCOB 3.8.2R(3) and (4) (Form and content of real time qualifying credit promotions).*

Meaning of ‘communicated to a person inside or outside the United Kingdom’

3.3.6 R For the purposes of this chapter:

- (1) *a qualifying credit promotion is communicated to a person outside the United Kingdom if it is:*
 - (a) *made to a person who receives it outside the United Kingdom; or*
 - (b) *directed only at persons outside the United Kingdom; and*
- (2) *a qualifying credit promotion is communicated to a person inside the United Kingdom if it is communicated to a person other than as described in (1);*

and see *MCOB 3.3.7R* and *MCOB 3.5.6R* which amplify this rule.

Meaning of ‘directed only at persons outside the United Kingdom’

- 3.3.7 R
- (1) If the conditions set out in 4(a), (b), (c) and (d) are met, *a qualifying credit promotion directed from a place inside the United Kingdom will be regarded as directed only at persons outside the United Kingdom.*
 - (2) If the conditions set out in 4(c) and (d) are met, *a qualifying credit promotion directed from a place outside the United Kingdom will be regarded as directed only at persons outside the United Kingdom.*
 - (3) In any other case, where one or more of the conditions in 4(a) to (e) is met, that fact will be taken into account in determining whether *a qualifying credit promotion is directed only at persons outside the United Kingdom* (but *a qualifying credit promotion may still be regarded as directed only at persons outside the United Kingdom even if none of these conditions is met*).
 - (4) The conditions are that:
 - (a) *the qualifying credit promotion is accompanied by an indication that it is directed only at persons outside the United Kingdom;*
 - (b) *the qualifying credit promotion is accompanied by an indication that it must not be acted upon by persons in the United Kingdom;*
 - (c) *the qualifying credit promotion is not referred to in, or directly accessible from, any other qualifying credit promotion which is made to a person or directed at persons in the United Kingdom by or on behalf of the same person;*

- (d) **there are in place proper systems and procedures to prevent recipients in the *United Kingdom* (other than those to whom the *qualifying credit promotion* might otherwise lawfully have been made) obtaining the *qualifying credit* to which the *qualifying credit promotion* relates, from the *person* directing the *qualifying credit promotion*, a *close relative* of his or a member of the same *group*;**
- (e) **the *qualifying credit promotion* is included in:**
 - (i) **a website, newspaper, journal, magazine or periodical publication which is principally accessed in or intended for a market outside the *United Kingdom*; and**
 - (ii) **a radio or television broadcast or teletext service transmitted principally for reception outside the *United Kingdom*.**

3.4

Purpose

- 3.4.1 G (1) Section 21(1) of the *Act* (Restriction on financial promotion) imposes a restriction on the *communication* of *financial promotions* (*qualifying credit promotions* in *MCOB*) by *unauthorised persons*. A *person* must not, in the course of business, *communicate* a *qualifying credit promotion* unless:
 - (a) he is an *authorised person*; or
 - (b) the content of the *qualifying credit promotion* is approved by an *authorised person*.
- (2) However, the *Financial Promotion Order* exempts from the restriction created by section 21(1) of the *Act* certain types of *financial promotions* (*qualifying credit promotions* in *MCOB*).
- 3.4.2 G (1) The purpose of this chapter is to provide *rules* and *guidance* for a *firm* which wishes to *communicate* or *approve* a *qualifying credit promotion*. *MCOB 3.5.2G* (Application: what? Exemptions) provides a guide to the topics covered in this chapter.
- (2) This chapter amplifies, for activities within its scope:
 - (a) *Principle 6* (Customers' interests) which requires a *firm* to pay due regard to the interests of its *customers* and treat them fairly; and

- (b) *Principle 7* (Communications with clients) which requires a *firm* to pay due regard to the information needs of its *clients*, and *communicate* information to them in a way which is clear, fair and not misleading.

3.5 General

Topics covered in this chapter

- 3.5.1 G *MCOB 3* includes some provisions which are applicable to all types of *qualifying credit promotion* and others which apply only to specific types. *MCOB 3.5.2G* has been provided to help locate the areas of particular relevance to types of *qualifying credit promotion*.
- 3.5.2 G This table belongs to *MCOB 3.5.1G*

Areas of particular relevance to types of qualifying credit promotion			
(1)	Provisions applying to all <i>qualifying credit promotions</i>	Application – who?	<i>MCOB 3.1</i>
		Application – what?	<i>MCOB 3.2</i>
		Application – where?	<i>MCOB 3.3</i>
		Purpose	<i>MCOB 3.4</i>
		General	<i>MCOB 3.5</i>
(2)	Provisions applying only to <i>non-real time qualifying credit promotions</i>	Form and content of non-real time qualifying credit promotions	<i>MCOB 3.6</i>
		Confirmation of compliance	<i>MCOB 3.9</i>
		Records	<i>MCOB 3.10</i>
(3)	Provisions applying only to <i>real time qualifying credit promotions</i>	Unsolicited real time qualifying credit promotions	<i>MCOB 3.7</i>
		Form and content of real time qualifying credit promotions	<i>MCOB 3.8</i>

(4)	Provisions applying only to certain types of <i>qualifying credit promotions</i>	Communication and approval of qualifying credit promotions for an overseas or unauthorised person	<i>MCOB 3.11</i>
		The Internet and other electronic media	<i>MCOB 3.12</i>

Other regulations and guidelines

3.5.3 G A firm communicating a *qualifying credit promotion* may also be subject to other regulations and guidelines, outside the remit of the *FSA*, such as:

- (1) the codes issued from time to time by the Advertising Standards Authority, the Independent Television Commission and the Radio Authority;
- (2) regulations of any *overseas regulator* (where relevant) if the *firm* intends to market from the *United Kingdom* into any other country;
- (3) the Privacy and Electronic Communications (EC Directive) Regulations 2003
- (4) the Timeshare Act 1992, as amended by the Timeshare Regulations 1997 (SI 1997/1081); and
- (5) the Consumer Protection Act 1987, or Consumer Protection (Northern Ireland) Order 1987 (SI 1987/2049 (N.I 20)).

‘Real time’ and ‘non-real time’ qualifying credit promotions

3.5.4 G This chapter draws a distinction between *real time* and *non-real time qualifying credit promotions*. *Guidance* on the meaning of those expressions, which are based upon article 7 of the *Financial Promotion Order*, is contained in *AUTH* App 1.10.2 (Real time v. non-real time promotions).

- 3.5.5 R
- (1) A ‘*real time qualifying credit promotion*’ is a *qualifying credit promotion* which is **communicated in the course of a personal visit, telephone conversation or other interactive dialogue.**
 - (2) A ‘*non-real time qualifying credit promotion*’ is a *qualifying credit promotion* that is not a *real time qualifying credit promotion*. It includes a *qualifying credit promotion* made by letter, e-mail or contained in a newspaper, journal, magazine, other periodical

publication, website, television or radio programme, or teletext service.

- (3) The following are to be regarded as indications that a *qualifying credit promotion* is a *non-real time qualifying credit promotion*:
- (a) the *qualifying credit promotion* is *communicated* to more than one *person* in identical terms (save for details of the recipient's identity);
 - (b) the *qualifying credit promotion* is *communicated* by way of a system which in the normal course constitutes or creates a record of the communication which is available to the recipient to refer to at a later time; and
 - (c) the *qualifying credit promotion* is *communicated* by way of a system which in the normal course does not enable or require the recipient to respond immediately to it.

Meaning of 'made', 'directed at' and 'recipient' in MCOB 3

3.5.6 R (In accordance with article 6 of the *Financial Promotion Order* (Interpretation: communications)) any reference in this chapter to:

- (1) a *communication* being made to another *person* is a reference to a *communication* being addressed, whether verbally or in legible form, to a particular *person* or *persons* (for example, where it is contained in a telephone call or letter);
- (2) a *communication* being directed at *persons* is a reference to a *communication* being addressed to *persons* generally (for example where it is contained in a television broadcast or website); and
- (3) a 'recipient' of a *communication* is the *person* to whom the *communication* is made or, in the case of a *non-real time qualifying credit promotion* which is directed at *persons* generally, any *person* who reads or hears the *communication*.

3.6 Form and content of non-real time qualifying credit promotions

Non-real time qualifying credit promotions: name and contact point

3.6.1 R A non-real time qualifying credit 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.

3.6.2 G (1) For the purposes of *MCOB* 3.6.1R, the name may be a trading name or shortened version of the legal name of the *firm* (although other legislation, for example, the Companies Act 1985, may require a *firm* to include information not required by this *rule*).

(2) The type of contact point envisaged for a *firm* by *MCOB* 3.6.1R is an e-mail address or telephone or facsimile number, where a *customer* can contact the *firm* for its address.

(3) A *firm* is not required in a *qualifying credit promotion* which it *communicates* or *approves* to name the *FSA* as its regulator. However, to comply with *MCOB* 3.6.3R (Non real time qualifying credit promotions: clear, fair and not misleading), if the *firm* chooses to name the *FSA* as its regulator and the *qualifying credit promotion* refers to matters not regulated by the *FSA*, it should also make clear that those matters are not regulated by the *FSA*. This might arise, for example, where the communication included both a *qualifying credit promotion* and a promotion for *unsecured lending*.

Non-real time qualifying credit promotions: clear, fair and not misleading

3.6.3 R (1) **A *firm* must be able to show that it has taken reasonable steps to ensure that a *non-real time qualifying credit promotion* is clear, fair and not misleading.**

(2) **A *non-real time qualifying credit promotion* which includes a comparison or contrast must:**

(a) **compare *qualifying credit* meeting the same needs or which is intended for the same purpose;**

(b) **objectively compare one or more material, relevant, verifiable and representative features of the *qualifying credit*, which may include price;**

(c) **not create confusion in the market place between the *firm* itself (or the *person* whose *qualifying credit promotion* it *approves*) and a competitor or between the *firm's* trademarks, trade names, other distinguishing marks,**

qualifying credit (or those of the *person* whose *qualifying credit promotion* it *approves*) and those of a competitor;

- (d) not discredit or denigrate the trademarks, trade names, other distinguishing marks, *qualifying credit*, services, activities or circumstances of a competitor;
- (e) not take unfair advantage of the reputation of a trademark, trade name or other distinguishing marks of a competitor;
- (f) not present *qualifying credit* as an imitation or replica of *qualifying credit* bearing a protected trademark or trade name; and
- (g) indicate in a clear and unequivocal way in any comparison referring to a special offer the date on which the offer ends or, where appropriate, that the special offer is subject to the availability of the *qualifying credit*, and, where the special offer has not yet begun, the date of the start of the period during which the special price or other specific conditions will apply.

3.6.4

E

- (1) A *firm* should take reasonable steps to ensure that, for a *non-real time qualifying credit promotion*:
 - (a) it does not omit any matters the omission of which causes the *qualifying credit promotion* not to be clear, fair and not misleading;
 - (b) if it describes a feature of any *qualifying credit*, it gives no less prominence to the possible disadvantages than to the benefits associated with that feature;
 - (c) it uses plain and intelligible language, and is easily legible (or, in the case of oral promotions, clearly audible);
 - (d) the accuracy of all statements of fact in it can be substantiated;
 - (e) its promotional purpose is not in any way disguised or misrepresented;
 - (f) any statement of fact, promise or prediction is clear, fair and not misleading and any relevant assumptions are clearly and prominently disclosed (but a *firm* is not required to explain,

on the face of the *qualifying credit promotion*, the basis on which a stated *APR* is calculated: see *MCOB 3.6.18G*);

- (g)** any statement of opinion is honestly held and, unless consent is impracticable, given with the written consent of the *person* concerned;
- (h)** the facts on which any comparison or contrast is made are verified, or, alternatively, that relevant assumptions are prominently disclosed and that the comparison or contrast is presented in a fair and balanced way, which is not misleading and includes all factors which are relevant to the comparison or contrast;
- (i)** it does not contain any false indications, in particular as to:

 - (i)** the *firm's* independence;
 - (ii)** the *firm's* resources and scale of activities; or
 - (iii)** the scarcity of any *qualifying credit*;
- (j)** the design, content or format does not in any way disguise, obscure or diminish the significance of any statement, warning or other matter which the *qualifying credit promotion* is required by this chapter to contain;
- (k)** it does not include any reference to approval by the *FSA* or any government body, unless such approval has been obtained in writing from the *FSA* or that body (see also *GEN 1.2* (Referring to approval by the *FSA*));
- (l)** where it contains information required as a consequence of the following provisions, the items of information provided in relation to each provision appear in proximity to each other:

 - (i)** *MCOB 3.6.11R*;
 - (ii)** *MCOB 3.6.13R* (Required risk statements), unless *MCOB 3.6.15R* (transient advertising) applies;
 - (iii)** *MCOB 3.6.17R* (Annual percentage rate (*APR*));

- (iv) **MCOB 3.6.25R;**
 - (v) **MCOB 3.6.26R (Multi-rate mortgages);**
and
 - (vi) **MCOB 3.6.27R (Fees for advice or**
arranging).
- (2) (a) **Contravention of MCOB 3.6.4E(1) may be relied on as tending to show contravention of MCOB 3.6.3R(1).**
- (b) **Compliance with MCOB 3.6.4E(1) may be relied on as tending to show compliance with MCOB 3.6.3R(1).**
- 3.6.5 G In relation to *MCOB 3.6.3R*:
- (1) *firms* should avoid the use of small print to qualify prominent claims;
 - (2) if a *non-real time qualifying credit promotion* includes information on the performance of the *firm*, on conditions in the market, interest rates, *APRs* or other *price information* this information should be relevant and recent. *Firms* should therefore avoid including this information in *qualifying credit promotions* which have a long shelf-life, and where the information can become outdated; and
 - (3) *firms* must ensure that an adequate description of mortgage products is given. For example *firms* should take care to ensure that where a rate is variable at any time during the term of the mortgage, the content of the *qualifying credit promotion* does not imply the rate may be fixed.
- 3.6.6 G The effect of *MCOB 3.6.4E(1)(b)* will depend upon the content of the promotion. A non-exhaustive list of examples satisfying *MCOB 3.6.4E(1)(b)* follows:
- (1) a promotion which, when describing any *cashback* offered to the *customer*, also clearly refers to any relevant conditions, such as a requirement to pay back some or all of the *cashback* on early repayment of the mortgage;
 - (2) a promotion which, when describing any fixed or discount rate, also clearly states the duration of any *early repayment charges*;
 - (3) a promotion which, when describing any reduction in regular payments following from the re-arrangement of existing loans, also clearly indicates any increase in the

total cost and any extension to the repayment period for the *customer*;

- (4) a promotion which, when describing any possible monetary saving, also clearly states how this could be achieved;
- (5) a promotion which, when including references to non-standard services or facilities, also clearly states that an additional fee may be payable for these; and
- (6) a promotion which, when it includes an indication of an initial payment holiday (for example, “pay nothing for 3 months”), also makes clear whether or not interest will be charged during this period.

3.6.7 G The requirement in *MCOB 3.6.4E(1)(l)* that certain information must be given in proximity means, for example, in relation to printed *qualifying credit promotions*, that this information is all visible at the same time.

3.6.8 R **In complying with its obligations under *MCOB 3.6.3R* (Non-real time promotions: clear fair and not misleading), a *firm* must ensure that the *qualifying credit promotion* does not contain any of the following words or expressions, unless the relevant condition applies:**

- (1) **the word ‘overdraft’ or any similar expression as describing any agreement for running-account credit except an agreement enabling the *customer* to overdraw on a current account;**
- (2) **the expression ‘interest free’ or any similar expression (such as ‘0% Finance’ or ‘Interest Free Option’) indicating that a *customer* is liable to pay no greater amount in respect of a transaction financed by credit than the *customer* would be liable to pay as a cash purchaser in relation to the same transaction, except where:**
 - (a) **the *total amount payable* by the *customer* does not exceed the cash price; or**
 - (b) ***MCOB 3.6.26R* (Multi-rate mortgages) applies, in which case the expression may be used in respect of any rate of charge of 0% provided that during the period in which the rate applies there is no interest charged and no increase in the amount of the mortgage loan.**

- (3) the expression ‘no deposit’ or any similar expression, except where no advance payments are required to be made on the loan;
- (4) the expression ‘mortgage guaranteed’, ‘pre-cleared’ or any similar expression, unless the *qualifying credit promotion* invites entry into a contract that is free of any conditions regarding the credit status of the *customer*; and
- (5) the expression ‘gift’, ‘present’ or any similar expressions, unless there are no conditions which would require the *customer* to return the money or items that are the subject of the claim.

3.6.9 R A *non-real time qualifying credit promotion* must:

- (1) describe any *early repayment charge* as an ‘early repayment charge’ and not use any other expression to describe such charges; and
- (2) describe any *higher lending charge* as a ‘higher lending charge’ and not use any other expression to describe such charges.

3.6.10 G (1) It cannot be assumed that *customers* necessarily have an understanding of the *qualifying credit* being promoted. If a *non-real time qualifying credit promotion* is specially designed for a targeted collection of *customers* who are reasonably believed to have particular knowledge of the *qualifying credit* being promoted, this fact should be made clear.

- (2) In relation to quotations of opinion:
 - (a) where only part of an opinion is quoted, it should nevertheless be a fair representation; and
 - (b) any connection between the holder of the opinion and the *firm* should be made clear.

3.6.11 R A *non-real time qualifying credit promotion* that features *qualifying credit* which is conditional upon the *customer* obtaining one or more further products from a specific *firm* (or its agents or *associates*) must prominently state the compulsory nature of these purchases.

3.6.12 G MCOB 3.6.11R is concerned with ensuring that *customers* are adequately informed, at an early stage, as to the existence of any *tied products* or services. However, it does not introduce equivalent disclosure requirements for services or products that

must be obtained as a condition for the making of the loan, but where the *customer* has a free choice as to the supplier.

Required risk statements

- 3.6.13 R ***A non-real time qualifying credit promotion must, unless MCOB 3.6.15R (Transient advertising) applies, prominently contain one or more of the following statements in the circumstances described:***
- (1) **where the *qualifying credit promotion* relates to a *regulated lifetime mortgage contract*:**
‘This is a lifetime mortgage. To understand the features and risks, ask for a personalised illustration.’
 - (2) **where the *qualifying credit promotion* refers to paying off unsecured debts (for example, credit cards, personal loans or overdrafts) by taking out *qualifying credit*:**
‘Think carefully before securing other debts against your home. Your home may be repossessed if you do not keep up repayments on your mortgage.’
 - (3) **in all cases except (1) and (2):**
‘Your home may be repossessed if you do not keep up repayments on your mortgage.’
 - (4) **where the mortgage will be denominated in a currency other than sterling:**
‘Changes in the exchange rate may increase the sterling equivalent of your debt.’
 - (5) **where more than one of the statements in (1) to (4) applies, each relevant statement should be included in the *qualifying credit promotion*. In such cases, the statement set out in (1), (2) or (3) should precede that in (4).**
- 3.6.14 G (1) Prominence of relevant information can play a key role in ensuring that a *communication* is clear, fair and not misleading. As a consequence, a number of requirements in *MCOB* relate to prominence. Where this is the case, the *FSA* will assess prominence in the context of the promotion as a whole. Use can be made of the positioning of text, background and text colour and typesize to ensure that prescribed information meets the requirements of *MCOB*. The surrounding of required statements with other information should be avoided where this might detract

from the prominence which it is obligatory to afford to the statements.

- (2) *Firms* may if they wish include a foreign language version of any required warning, in addition to the English language version required by these *rules*. If foreign language versions of warnings are included, *firms* are reminded of prominence requirements in *MCOB* 3.6.13R and *MCOB* 3.6.14G(1). Information should not be included which detracts from the required prominence of warning statements.

Transient advertising

3.6.15 R *MCOB* 3.6.13R (Required risk statements) does not apply if the *non-real time qualifying credit promotion is communicated:*

- (1) **by way of sound broadcasting or television where the primary purpose of the programming in which the promotion is contained is not to promote lending; or**
- (2) **by an exhibition of pictures or photographic or cinematographic films.**

3.6.16 G (1) *MCOB* 3.6.15R(1) is intended to distinguish between promotions in breaks between ‘normal’ commercial broadcast programming (where the text prescribed in *MCOB* 3.6.13R(Required risk statements) is not required) and promotions in breaks which are in or around programming intended to promote lending (where *MCOB* 3.6.13R (Required risk statements) applies).

- (2) In relation to promotions on dedicated interactive television services, if the promotion is not contained within programming but instead forms a separate feature, the exemption offered by *MCOB* 3.6.15R(1) would not be available.

Annual percentage rate (APR)

3.6.17 R (1) ***A firm must ensure that if a non-real time qualifying credit promotion contains either price information for specific qualifying credit, or makes reference (either explicitly or implicitly) to the availability of credit for customers who might otherwise consider their access to credit restricted, the promotion also:***

- (a) **states the *APR*;**
- (b) **gives the *APR*, and the accompanying statement in (3), with no less prominence than any *price information* or reference (either explicitly or**

implicitly) to the availability of credit for *customers* who might otherwise consider their access to credit restricted; and

(c) positions the *APR* after any other rate of charge relating to the *qualifying credit*, clearly distinguishing it from any such rate but without interjecting other information in between the *APR* and any other rate of charge.

(2) A *firm* must calculate the *APR* in accordance with *MCOB 10* (Annual percentage rate).

(3) The *APR* must be expressed as follows, with **X** being the *APR* calculated for the particular *qualifying credit*:

‘The overall cost for comparison is X% APR’

3.6.18 G *MCOB 3.6.17R* does not require a *firm* to explain the basis on which the *APR* is calculated, or to provide a figure for the *total charge for credit*, in the *non-real time qualifying credit promotion*.

3.6.19 G For the purposes of *MCOB 3.6.17R(1)*, references to the availability of credit for *customers* who might otherwise consider their access restricted include references to:

- (1) credit history; or
- (2) credit rating; or
- (3) county court judgments; or
- (4) employment; or
- (5) housing circumstances (for example, council tenants).

3.6.20 G (1) In relation to *MCOB 3.6.17R(1)(c)*, the intention is that the *APR* should follow on, but be readily identifiable as different, from the indicated rate or rates of charge.

(2) For multi-rate products this should mean that the *APR* is presented, in sequence, after the different rates of charge that apply.

(3) The *APR* may be distinguished from other rates of charge by techniques such as using a contrasting (and legible) colour for text. However, the requirement of *MCOB 3.6.17R(1)(c)* will not be satisfied by text devices such as the use of brackets which tend to diminish the impact of the *APR*.

- 3.6.21 G If a *qualifying credit promotion* contains *price information* for more than one *qualifying credit* product, *MCOB 3.6.17R* requires an *APR* to be provided for each product. Where more than one *APR* is required to be given, each *APR* will need to be no less prominent than:
- (1) any *price information* relating to the particular product;
 - (2) any reference (either explicitly or implicitly) to the availability of credit for *customers* who might otherwise consider their access to credit restricted; and
 - (3) any other *APR* in the *qualifying credit promotion*.
- 3.6.22 R **If the *non-real time qualifying credit promotion* concerns a contract under which the *APR* varies (for example, depending upon the circumstances of the *customer*), the *APR* required by *MCOB 3.6.17R* (Annual percentage rate (*APR*)) is that which is representative of the business expected to arise from the promotion.**
- 3.6.23 R **For the purposes of *MCOB 3.6.22R*, an *APR* is not representative of business unless it is an *APR* at or below which at least 66% of *customers* responding to the promotion and who enter into a *qualifying credit* agreement which is the subject of the promotion would be charged.**
- 3.6.24 G (1) The *FSA* would not regard an *APR* described as ‘from X%’ as satisfying *MCOB 3.6.22R*.
- (2) In *MCOB 3.6.22R*, when determining the representative *APR*, account should be taken of the business that has arisen from similar *qualifying credit promotion* in the previous 12 months. Where the *qualifying credit promotion* is for a new product or business, reference should instead be had to the relevant business plans.
- 3.6.25 R **If the *non-real time qualifying credit promotion* concerns a contract where the *APR* varies depending upon the circumstances of the *customer*, the following further statement must be included with due prominence:**
- “The actual rate available will depend upon your circumstances. Ask for a personalised illustration.”**
- Multi-rate mortgages**
- 3.6.26 R **If the *non-real time qualifying credit promotion* is for a product where more than one rate of charge will or may apply during the course of the contract, and the *non-real time qualifying credit promotion* contains information about any of these rates then:**

- (1) **the *non-real time qualifying credit promotion* must contain a clear and no less prominent description of all of the rates of charge that will apply;**
- (2) **where any rate to be charged in the future is variable (such as the *mortgage lender's* standard variable rate), the rate indicated must be the level of that rate current at the time of the promotion; and**
- (3) **the rates must be stated in sequence from the rate initially applying through to the rate assumed to apply at the end of the mortgage, and after each rate must be given a statement:**
 - (a) **of its period of application; and**
 - (b) **that the rate then changes.**

Fees for advice or arranging

- 3.6.27 R If a *non-real time qualifying credit promotion* relates to the *controlled activities of advising on or arranging qualifying credit* and a fee may be charged for these activities, a *firm* must ensure that a prominent indication is given of:
- (1) **the amount of the fee (if known); or**
 - (2) **a representative fee based upon the business expected to arise from the promotion.**
- 3.6.28 G *MCOB* 3.6.27R seeks to ensure that *customers* are given early notice of the existence of any fees charged by intermediaries in connection with the provision of *qualifying credit*. Where the fee is known at the outset, this must be indicated. The indication could be either as a cash value or as a percentage. If the charging of a fee, and the level of this, are dependent upon the circumstances of the *customer*, the indication must be based upon the business that is expected to result from the promotion.
- 3.6.29 G *MCOB* 3.6.14G(1) provides further guidance in relation to prominence.
- 3.6.30 G *MCOB* 3.6.27R(2) does not require the promotion to set out the characteristics of the representative business (loan amount etc) on which the indicated fee is based. For example, where the fee charged by a *firm* relates to circumstances of the *customer* such as their previous credit history, it would be sufficient to state that "There will be a fee for mortgage advice. The precise amount will depend upon your circumstances but we estimate that it will be £X".

3.7

Unsolicited real time qualifying credit promotions

Meaning of ‘solicited’ and ‘unsolicited’ real time qualifying credit promotion

3.7.1

R

(1) **An *unsolicited real time qualifying credit promotion* is a *real time qualifying credit promotion* which is not solicited as described in (2).**

(2) **A *solicited real time qualifying credit promotion* is a *real time qualifying credit promotion* which is solicited, that is, it is made in the course of a personal visit, telephone call or other interactive dialogue if that call, visit or dialogue:**

(a) **was initiated by the recipient of the *qualifying credit promotion*; or**

(b) **takes place in response to an express request from the recipient of the *qualifying credit promotion*;**

and 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 *qualifying credit promotion* would be made.

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

(a) **because he omits to indicate that he does not wish to receive any or any further visits or calls or to engage in any or any further dialogue;**

(b) **because he agrees to standard terms that state that such visits, calls or dialogues will take place unless he has signified clearly that, in addition to agreeing to the terms, he is willing for them to take place.**

(4) **If a *qualifying credit 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 any contract for *qualifying credit* jointly with R.**

3.7.2

G

MCOB 3.7.1R is based on article 8 of the *Financial Promotion Order*. Guidance on whether a *real time qualifying credit promotion* is solicited is contained in *AUTH* App 1.10.8 (Solicited v unsolicited real-time promotions). *AUTH* App 1.10.11 to *AUTH*

App 1.10.14 also give guidance on who will be considered the 'recipient' of a communication.

Prohibition on unsolicited real time qualifying credit promotions to customers

3.7.3 R *A firm must not make an unsolicited real time qualifying credit promotion unless the customer has an established existing customer relationship with the firm and the relationship is such that the customer envisages receiving unsolicited real time qualifying credit promotions.*

- 3.7.4 G**
- (1) *Firms are reminded of the exemptions in MCOB 3.2.5R (Application: what? exemptions). MCOB 3.7.3R does not prohibit an exempt unsolicited real time qualifying credit promotion.*
 - (2) *MCOB 3.2.5R(2) creates an exemption for qualifying credit promotions that contain only very limited information about the firm (such as its name or contact details). The limited nature of this exemption means that a firm is unlikely to be able to use it to induce a customer to approach the firm and turn any subsequent communication by the firm into a solicited real time qualifying credit promotion.*

3.8 Form and content of real time qualifying credit promotions

3.8.1 G *A firm should note that MCOB 3.7.3R (Prohibition on unsolicited real time promotions to customers) prevents a firm from communicating to a customer an unsolicited real time qualifying credit promotion other than an exempt promotion (which is outside the scope of this chapter) or where MCOB 3.7.3R applies. Many solicited real time qualifying credit promotions will be exempt promotions (and, therefore, outside the scope of this chapter). Accordingly, MCOB 3.8.2R and 3.8.3G apply only to solicited real time qualifying credit promotions which are not exempt qualifying credit promotions and to unsolicited real time qualifying credit promotions within MCOB 3.7.3R.*

- 3.8.2 R** *A firm must ensure that an individual who makes a real time qualifying credit promotion on the firm's behalf:*
- (1) does so in a way which is clear, fair and not misleading;**
 - (2) does not make any untrue claims;**
 - (3) makes clear the purpose (or purposes) of the qualifying credit promotion at the initial point of communication, and identifies himself and the firm which he represents;**

- (4) **if the time and method of *communication* were not previously agreed by the recipient:**
 - (a) **checks that the recipient wishes him to proceed;**
 - (b) **terminates the *communication* if the recipient does not wish him 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;**
- (5) **gives any *person* with whom he arranges an appointment a contact point;**
- (6) **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.**

3.8.3 G In *MCOB* 3.8.2R(6)(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.

3.8.4 G The requirements of *MCOB* 3.8.2R and 3.8.3G:

- (1) apply in respect of all individuals who initiate the *communication*, including advisers and call centre operators;
- (2) apply to all forms of *real time qualifying credit promotion* with *customers*, including face to face and telephone *qualifying credit promotion*;
- (3) but 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*.

- 3.8.5 G SYSC 3.2.20R (Records) requires a *firm* to take reasonable care to make and retain certain records. For a telemarketing campaign to which MCOB 3.8.2R and 3.8.3G apply, those records should include copies of any scripts used.
- 3.8.6 G *Firms* should note the additional disclosure requirements in MCOB 4.4.7 (Disclosure where initial contact is by telephone) and MCOB 4.5 (Additional disclosure for distance mortgage mediation contracts with retail customers) in relation to telephone calls that may fall within the definition of a *financial promotion*.

3.9 Confirmation of compliance

- 3.9.1 R (1) **Before a *firm* communicates or approves a non-real time qualifying credit promotion it must confirm that the qualifying credit promotion complies with the rules in this chapter.**
- (2) **A *firm* must arrange for the confirmation exercise in (1) to be carried out by an individual or individuals with appropriate expertise.**
- 3.9.2 G (1) In MCOB 3.9.1R(2) ‘appropriate expertise’ will vary depending on the complexity of the *qualifying credit promotion* and the *qualifying credit* to which it relates. The individuals engaged by a *firm* to confirm the compliance of its *qualifying credit promotions* with this chapter may themselves have different levels of expertise and therefore a different level of authority for confirmation depending on the type of promotion and the *qualifying credit* involved.
- (2) A *firm* may arrange for a third party with appropriate expertise to carry out the confirmation exercise on the *firm's* behalf, but the responsibility for the *qualifying credit promotion* remains with the *firm*.

Withdrawing confirmation

- 3.9.3 R **If, at any time after it has completed a confirmation exercise in MCOB 3.9.1R(1), a *firm* becomes aware that a *qualifying credit promotion* no longer complies with the rules in this chapter, it must ensure that the *qualifying credit promotion* is withdrawn as soon as is reasonably practicable by:**
- (1) **ceasing to *communicate* it;**
- (2) **withdrawing its *approval* (if applicable); and**
- (3) **notifying any *person* that the *firm* knows to be relying on its *approval* (if applicable) or confirmation (under MCOB 3.9.5R).**

- 3.9.4 G (1) *MCOB 3.9.3R* is of particular importance to a *qualifying credit promotion*, such as a product brochure, that a *firm* uses over a period of time. It has little application to a *qualifying credit promotion* which is of its nature ephemeral, for example a mobile phone text message. Further, a *qualifying credit promotion* which clearly speaks as at a particular date will not cease to comply with the *rules* in this chapter merely because the passage of time has rendered it out-of-date. This does not mean, however, that a *qualifying credit promotion* can include information (such as *price information*) which is likely to become outdated during the currency of the *qualifying credit promotion* without the *firm* having regard to the need for any *qualifying credit promotion* to be clear, fair and not misleading. See further *MCOB 3.6.5G (2)*.
- (2) For compliance with *MCOB 3.9.3R*, the *FSA* will expect a *firm* to monitor its relevant *qualifying credit promotions* as part of the *firm's* routine compliance monitoring procedures. A *firm* may find it helpful to designate a relevant *qualifying credit promotion* with a 'review date', a date at which the *qualifying credit promotion* should be checked once more against the *rules* in this chapter. If it is found no longer to meet these requirements it should be withdrawn as soon as is reasonably practicable.
- (3) If at any time a *firm* becomes aware that *customers* may have been misled by a *qualifying credit promotion* it should consider whether *customers* who have responded to the *qualifying credit promotion* should be contacted with a view to explaining the position and offering any appropriate form of redress to those who have suffered financial loss.

Communicating a qualifying credit promotion where another firm has confirmed compliance

- 3.9.5 R A *firm* will not contravene any of the rules in this chapter in circumstances where it (*firm 'A'*) communicates a *non-real time qualifying credit promotion* which has been produced by another *person* provided that:
- (1) A takes reasonable care to establish that another *firm* (*firm 'B'*) has already confirmed the compliance of the *qualifying credit promotion* in accordance with *MCOB 3.9.1R*;
- (2) A takes reasonable care to establish that A communicates the *qualifying credit promotion* only to recipients of the type for whom it was intended at the time B carried out the confirmation exercise; and

- (3) so far as A is, or ought reasonably to be, aware:
 - (a) the *qualifying credit promotion* has not ceased to be clear, fair and not misleading since that time; and
 - (b) B has not withdrawn the *qualifying credit promotion*.

3.10 Records

Requirement to make and retain records

3.10.1 R A *firm* must make an adequate record of each *non-real time qualifying credit promotion* 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 *qualifying credit promotion* was last *communicated*.

Content of records

3.10.2 G In deciding what is an adequate record under *MCOB* 3.10.1R, a *firm* should consider including, or providing reference to, where appropriate, such matters as:

- (1) the name of the individual or individuals who confirmed that the *qualifying credit promotion* complied with the *rules* in this chapter;
- (2) the date of confirmation and (where appropriate) *approval*;
- (3) details of the medium for which the *qualifying credit promotion* was authorised;
- (4) the evidence supporting any material factual statement about *qualifying credit* in the *qualifying credit promotion*. For example, for any testimonial they use, advertisers should hold signed and dated proof, including a contact address. Unless they are genuine opinions taken from a published source, testimonials should only be used with the written permission of those giving them; and
- (5) where the promotion contains a typical *APR*, evidence to show that the *APR* was representative of the business expected to arise from the promotion (see *MCOB* 3.6.22R).

3.10.3 G (1) A *firm* should also retain a copy of the *qualifying credit promotion* as finally published or, if this is not practicable, monitor the published version to verify that it is in substantially the same format as the version which the *firm* confirmed complied with the *rules* in this chapter.

- (2) Records which should be retained include:
 - (a) any written *qualifying credit promotion* used by an adviser; and
 - (b) any written material which is used in an organised marketing campaign (including, for example, written mailshots whether sent by e-mail, post, facsimile or other media).
- (3) If the *qualifying credit promotion* is not in written form, the record should represent the actual *qualifying credit promotion* as accurately as possible.

Form of records

3.10.4 G *MCOB* 2.8 (Record Keeping) applies to the form in which records required in accordance with this chapter must be kept.

3.11 Communication and approval of qualifying credit promotions for an overseas person or an unauthorised person

Approval of qualifying credit promotions

- 3.11.1 G
- (1) Section 21(1) of the *Act* (Restrictions on financial promotion) prohibits an *unauthorised person* from *communicating a financial promotion (qualifying credit promotion in the case of MCOB)*, in the course of business, unless an exemption applies or the *qualifying credit promotion* is *approved* by a *firm*.
 - (2) Most of the *rules* in this chapter apply when a *firm* *approves a qualifying credit promotion* in the same way as when a *firm* *communicates a qualifying credit promotion* itself. A *firm* therefore has a similar responsibility for a *qualifying credit promotion* that it *approves* as for one that it *communicates*. For example, a *firm* which *approves a non-real time qualifying credit promotion* must:
 - (a) if *MCOB* 3.9.1R applies, confirm that the *qualifying credit promotion* complies with the *rules* in this chapter; and
 - (b) if *MCOB* 3.6.3R(1) applies, be able to show that it has taken reasonable steps to ensure that the *qualifying credit promotion* is clear, fair and not misleading.
 - (3) A *firm* may also wish to *approve a qualifying credit promotion* that it *communicates* itself. This would ensure that an *unauthorised person* who then also *communicates* the *qualifying credit promotion* to another *person* will not

contravene the restriction in section 21(1) of the *Act* (Restrictions on financial promotion).

- (4) A *firm* which *approves* a promotion that is exempt under *MCOB* 3.2.5R (Application: what?; exemptions) or *MCOB* 3.3.1R (Application; where?) must still comply with certain *rules* in this chapter (see *MCOB* 3.2.4R (Application :what? exemptions) and *MCOB* 3.3.3R (Exceptions to territorial scope: rules without territorial limitation)).

No approval of real time qualifying credit promotions

- 3.11.2 R ***A firm must not approve a real time qualifying credit promotion.***

Approval of qualifying credit promotions when not all the rules apply

- 3.11.3 R ***If a firm approves a qualifying credit promotion in circumstances in which one or more of the rules in this chapter are expressly disapplied, the approval must be given on terms that it is limited to those circumstances.***

- 3.11.4 G If an *approval* is limited in accordance with *MCOB* 3.11.3R, and an *unauthorised person communicates* the *qualifying credit 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.

Non-real time qualifying credit promotions for overseas persons

- 3.11.5 R ***A firm must not communicate or approve a non-real time qualifying credit promotion which relates to qualifying credit provided by an overseas person, unless:***

- (1) ***the qualifying credit promotion 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 no reason to doubt that the *overseas person* will deal with *customers* in the *United Kingdom* in an honest and reliable way.**

3.12 The Internet and other electronic media

3.12.1 G This section contains *guidance* on the use of the Internet and other electronic media to *communicate qualifying credit promotions*. *Firms* are also referred to the *guidance* in *MCOB 2.7* (Application to electronic media and distance communications).

Approach and general guidance

3.12.2 G Any material, which meets the definition of a *qualifying credit promotion*, including any video or moving image material incorporated in any website containing a *qualifying credit promotion*, should comply with the *rules* in this chapter. See *AUTH App 1.22* (The Internet) for further *guidance* on *financial promotions* on the Internet, including the treatment of hyperlinks and banners.

3.12.3 G As indicated in *MCOB 3.3* (Application: where?), for the purposes of the *qualifying credit promotion rules* there are two types of approach to *qualifying credit promotion communicated* via the Internet and other electronic media:

(1) *real time qualifying credit promotions* where the *communication* is in the form, for example, of a telephone conversation, or other form of interactive dialogue; and

(2) *non-real time qualifying credit promotions* where the *customer* may, for example, choose from reading a description of the *qualifying credit*, through to the completion of a contract in a similar way to browsing through a leaflet rack. The *rules* in this chapter relating to hard copy *qualifying credit promotions* such as advertisements in magazines or newspapers apply equally to such promotions. E-mails, material displayed on a website and sound and television broadcasts are *non-real time qualifying credit promotions* (see *MCOB 3.5.5R(2)*).

3.12.4 G (1) Before using the Internet, digital or any other form of interactive television or other electronic media to promote its services, a *firm* should refer to legislation such as the Data Protection Act 1998 and the Computer Misuse Act 1990, as well as to this chapter.

- (2) In relation to *qualifying credit promotions communicated* by way of television, *firms* will want to have regard to Guidance Note 3 of the ITC Code of Advertising Standards and Practice on the use and appearance of superimposed text.
- (3) When designing websites and other electronic media, *firms* should be aware of the difficulties that can arise when reproducing certain colours and printing certain types of text. These difficulties could cause problems with the presentation and retrieval of required information. Any *qualifying credit promotion* communicated by the Internet, digital or other forms of interactive television is subject to the requirements in *MCOB 3.6* (Form and content of non-real time qualifying credit promotions) and *MCOB 3.8* (Form and content of real time qualifying credit promotions) as applicable.

Specific guidance

3.12.5

G The FSA website

The *FSA's* web site <http://www.fsa.gov.uk> contains a wide range of information including pages of specific relevance to *customers*. *Firms* may, if they wish, include a reference or hyperlink to the *FSA's* site; this will not, however, replace any requirements of the *qualifying credit promotion rules*.

Annex 1 G: Examples of *qualifying credit promotions*

This Annex belongs to *MCOB 3.1.12*. This Annex gives examples of *qualifying credit promotions* that comply with a number of provisions of *MCOB 3*. These examples are intended as a guide only, and are not exhaustive of the ways in which the identified provisions of *MCOB 3* can be satisfied. Firms may adopt other means of complying with the appropriate rule or evidential provision

Example 1

This example illustrates one method of using the exemption in *MCOB 3.2.4R*

ABC Associates Mortgage Broker Call us on 0800 000 000
--

Example 2

This example of a *qualifying credit promotion* published by a *mortgage intermediary* illustrates one method of complying with the following provisions of *MCOB 3*:-

3.6.1 R

3.6.13 R (3)

3.6.13 R (5)

3.6.27 R (2)

ABC ASSOCIATES Finance Broker With access to hundreds of products from most main lenders we're sure to find the right solution for you. Need advice on what's best? No problem – all our staff are fully trained. Our charges are usually just £250. Call us today on 0800 000 000 Your home may be repossessed if you do not keep up repayments on your mortgage.

Example 3

This example of a *qualifying credit promotion* illustrates one method of complying with the following provisions of *MCOB 3*:-

3.6.1 R

3.6.5 G (3)

3.6.13 R (3)

3.6.17 R (1) (a)

3.6.17 R (1) (b)

3.6.17 R (3)

3.6.22 R

3.6.25 R

ABC ASSOCIATES

CCJ's? Bad credit history? No Bank Account?

We can help with all your mortgage needs.

Call us today on 0800 000 000

The overall cost for comparison is **9.9%APR**.

The actual rate available will depend upon your circumstances. Ask for a personalised illustration.

APR variable and based on a usual case.
Our charges are usually £500.

Your home may be repossessed if you do not keep up repayments on your mortgage.

Example 4

This example of a *qualifying credit promotion* illustrates one method of complying with the following provisions of *MCOB* 3:-

3.6.1 R

3.6.3 R (1)

3.6.4 (E) (1) (b)

3.6.5 G (3)

3.6.9 R (1)

3.6.13 R (3)

3.6.17 R (1) (a)

3.6.17 R (1) (c)

3.6.17 R (3)

3.6.26 R

THE ABC MORTGAGE COMPANY

Calling all first time buyers...

**Get things off to a great start with our
fixed rate mortgage**

It's just the thing if you're starting out...

a low, low rate to help you into your first home

2.5% for the first 6 months,
changing to ...

3.5% for one year then changing
to our variable rate which is
currently...

7.5% and remaining on variable
rate terms for the rest of the
mortgage.

**An Early
Repayment
Charge is payable
if you repay all or
part of this
mortgage within
the first 18
months.**

The overall
cost for
comparison
is

**7.7%
APR**

**Your home may be repossessed if you do not keep up
repayments on your mortgage.**

Call us now on 020 0000 0000

4 ADVISING AND SELLING STANDARDS

4.1 Application

Who?

4.1.1 R This chapter applies to a *firm* in a category listed in column (1) of the table in *MCOB 4.1.2R* in accordance with column (2) of that table.

4.1.2 R Table

This table belongs to *MCOB 4.1.1R*

(1) Category of firm	(2) Applicable section
<i>mortgage lender</i>	whole chapter except <i>MCOB 4.6</i> and <i>MCOB 4.7</i>
<i>mortgage adviser</i>	whole chapter
<i>mortgage arranger</i>	whole chapter except <i>MCOB 4.7</i>

What?

4.1.3 R This chapter applies if a *firm* in the course of carrying on a *regulated mortgage activity*:

- (1) makes, or anticipates making, a *personal recommendation* about; or
- (2) gives, or anticipates giving, personalised information relating to;

the *customer*:

- (3) entering into a *regulated mortgage contract*; or
- (4) varying the terms of a *regulated mortgage contract* entered into by the *customer*.

4.1.4 R (1) *MCOB 4.4* (Initial disclosure requirements) applies only in relation to varying the terms of a *regulated mortgage contract* entered into by the *customer* in any of the following ways:

- (a) adding or removing a party;
- (b) taking out a further advance; or
- (c) switching all or part of the *regulated mortgage contract* from one type of interest rate to another.

(2) **Otherwise, this chapter, *MCOB 4*, applies in relation to any form of variation of a *regulated mortgage contract*.**

4.1.5 R In relation to a *regulated lifetime mortgage contract* or a home reversion scheme, this chapter *MCOB 4* is replaced by *MCOB 8* (Lifetime mortgages: advising and selling standards).

4.1.6 G *MCOB 4.1.5R* means that this chapter, *MCOB 4*, deals with standard *regulated mortgage contracts* only and therefore *firms* should note that the scope of service rules in *MCOB 4.3.1R* apply in respect of standard *regulated mortgage contracts* only.

4.1.7 G If a *firm* is an *authorised professional firm*, *MCOB 1.2.10R(3)* has the effect that when the *firm* conducts *non-mainstream regulated activities* with a *customer*, *MCOB 4.4* (Initial disclosure requirements) applies. The *firm* is only required to provide the initial disclosure information in *MCOB 4 Ann 1R* or *MCOB 4 Ann 2R* section 7 (What to do if you have a complaint) and section 8 (Are we covered by the Financial Services Compensation Scheme (FSCS)?).

4.2 Purpose

4.2.1 G (1) This chapter amplifies *Principle 6* (Customers' interests), *Principle 7* (Communications with clients) and *Principle 9* (Customers: relationships of trust). *Principle 6* requires a *firm* to pay due regard to the interests of its *customers* and treat them fairly. *Principle 7* requires a *firm* to pay due regard to the information needs of its *clients* and communicate information to them in a way which is clear, fair and not misleading. *Principle 9* requires a *firm* to take reasonable care to ensure the suitability of its *advice*.

(2) The purpose of this chapter is to ensure that:

(a) *customers* are adequately informed about the nature of the service which they may receive from a *firm* in relation to *regulated mortgage contracts*. In particular *firms* need to make clear to *customers* the scope of *regulated mortgage contracts* available from them; and

(b) where *advice* is given, it is suitable for the *customer*. The steps *firms* need to take to ensure that the *customer* receives suitable *advice* will vary depending on the demands and needs of the *customer* and the type of *regulated mortgage contract*.

(3) This chapter also implements certain requirements of the *Distance Marketing Directive* in relation to *distance mortgage mediation contracts* (see *MCOB 4.5* (Additional disclosure for distance mortgage mediation contracts with retail customers))

and *MCOB* 4.6 (Cancellation of distance mortgage mediation contracts)).

4.3 Scope of service provided

Providing services within and beyond scope

- 4.3.1 R (1) Subject to (2), a *firm* must take reasonable steps to ensure that the scope of the service given to a *customer*, and the *regulated mortgage contracts* offered, is based on a selection from one of the following:
- (a) the whole market; or
 - (b) a limited number of *mortgage lenders*; or
 - (c) a single *mortgage lender*.
- (2) A *firm* may change the scope of the service it gives to a particular *customer* by widening the scope, for example, from that in (1)(c) to that in (b) or (a) but it must take reasonable steps to ensure that before doing so:
- (a) the *customer* is made aware of the proposed change by a communication in a *durable medium*; and
 - (b) the *customer's* attention is drawn to any change in the *fees* that the *customer* must pay to the *firm* for the *firm's* services.

- 4.3.2 R A *firm* must take reasonable steps to ensure that the extent of the scope of the service which it holds itself out as offering to a *customer* reflects the extent of that scope in practice.

- 4.3.3 G *SYSC* 3.2.6R (Compliance) requires a *firm* to “take reasonable care to establish and maintain effective systems and controls for compliance with applicable requirements and standards under the *regulatory system*”. In meeting this requirement in relation to *MCOB* 4.3.2R, a *firm* which states that it provides a service based on a limited number of *mortgage lenders* (see *MCOB* 4.3.1R(1)(b)) should have adequate systems and controls in place to monitor whether business is actually placed with those *mortgage lenders*.

Whole of market

- 4.3.4 R (1) A *firm* which holds itself out as giving information or *advice* to *customers* on *regulated mortgage contracts* from the whole market must not give any such information or *advice* unless:

- (a) **it has considered a sufficiently large number of *regulated mortgage contracts* which are generally available from the market; and**
 - (b) **the consideration in (a) is based on criteria which reflect adequate knowledge of the *regulated mortgage contracts* generally available from the market as a whole.**
- (2) **A *firm* in (1) must satisfy the obligation in *MCOB* 4.7.2R by taking reasonable steps to ensure that a *personal recommendation* given to a *customer* is:**
- (a) **in accordance with the consideration in (1); and**
 - (b) **is the *regulated mortgage contract* which on the basis of that consideration is the most suitable to meet the *customer's* needs.**

4.3.5 G If a *firm* holds itself out as giving information or *advice* to *customers* on *regulated mortgage contracts* generally available from the whole market, the *firm* may choose to offer its *customers* only a selection of those *regulated mortgage contracts*. The *firm's* selection of *regulated mortgage contracts* for this purpose will need to be sufficiently large to enable the *firm* to satisfy the suitability requirement in *MCOB* 4.3.4R (Whole of market).

4.3.6 G (1) When offering only a selection of *regulated mortgage contracts* as described in *MCOB* 4.3.5G, a *firm* should ensure that its analysis of the market and of the available *regulated mortgage contracts* is kept adequately up to date. For example, a *firm* would need to update its selection of *regulated mortgage contracts* if it became aware that a *regulated mortgage contract* had become generally available offering an improved product feature, or a better interest rate, when compared with the *regulated mortgage contracts* currently in the *firm's* selection.

(2) One way in which a *firm* may wish to satisfy *MCOB* 4.3.4R is by using a panel of *mortgage lenders*, which includes representative *firms* from the whole market. However, if a *firm* wishes to offer a whole of market service through the use of a panel, it must still assess the individual *regulated mortgage contracts* that are being offered by *mortgage lenders* in making its selection.

Independence

4.3.7 R (1) **When providing information or giving *advice* to a *customer* on *regulated mortgage contracts*, a *firm* must not hold itself out as acting independently unless it intends to:**

- (a) provide that service wholly or predominantly based on the whole market; and
 - (b) enable the *customer* to pay a *fee* for the provision of that service.
 - (2) A *firm* which in accordance with (1) holds itself out as independent must ensure that the information or *advice* subsequently given to the *customer* concerned is information or *advice* on *regulated mortgage contracts* from the whole market.
- 4.3.8 G (1) *MCOB 4.3.7R* stipulates what a *firm* must do if it is to hold itself out to any particular *customer* as acting independently. A *firm* which wishes to hold itself out generally as acting independently should ensure that doing so (for example through a trading name or advertising) is consistent with the kind of service which *customers* receive in relation to *regulated mortgages contracts*.
- (2) A *firm* that sells both *investments* and *regulated mortgage contracts* can offer from the whole market and therefore be ‘independent’ for one but offer only a limited range for the other. If this is the case, the *firm* should explain the different nature of the services in a way that meets the requirement for clear, fair and not misleading communications in *MCOB 2.2.6R* (Clear, fair and not misleading communications).
- 4.3.9 G *MCOB 4.3.7R*(1)(b) means that a *firm* wishing to hold itself out as independent will need to give a *customer* a purely *fee*-based option for paying its *fees*. However, the *firm* may in addition provide the *customer* with other payment options, such as a combination of *fees* and commission.
- Appointed representatives**
- 4.3.10 R A *firm* may restrict the *regulated mortgage contracts* it authorises a particular *appointed representative* to sell. If it does so, the *appointed representative* must reflect this restricted scope in the initial disclosure document provided to the *customer* in accordance with *MCOB 4.4.1R*(1)(c).
- 4.4 **Initial disclosure requirements**
- Disclosure where initial contact is not made by telephone**
- 4.4.1 R (1) A *firm* must ensure that, on first making contact with a *customer* when it anticipates giving personalised information or *advice* on a *regulated mortgage contract*, it:
- (a) establishes with the *customer* whether it will provide *advice* or information;

- (b) establishes with the *customer* how much he will pay or, alternatively, the basis on which the *firm* will be remunerated, where appropriate; and
- (c) (unless (2) applies) provides the *customer* with either:
 - (i) the initial disclosure document in *MCOB 4 Ann 1R*; or
 - (ii) in circumstances where the rules in *MCOB 4 Ann 2R* allow this, the initial disclosure document in *MCOB 4 Ann 2R*;

subject to (3) and in a *durable medium*¹.

- (2) The requirement in (1)(c) does not apply where;
 - (a) an initial disclosure document has already been provided by the *firm* and that document is still likely to be accurate and appropriate for the *customer*; or
 - (b) an initial disclosure document has already been provided by the *firm* which first made contact with the *customer* in respect of the particular *regulated mortgage contract*, and the *firm* subsequently making contact with the *customer*:
 - (i) does not anticipate altering or replacing the service described in that document; or
 - (ii) is not making contact with a view to concluding a *distance mortgage mediation contract*; or
 - (c) initial contact is made by telephone.
- (3) A *firm* may choose not to include the initial disclosure information required by sections 6, 7 and 8 of *MCOB 4 Ann 1R*, and sections 5, 7 and 8 of *MCOB 4 Ann 2R*, if it provides the *customer* with the information required by those sections in some other *durable medium* before the

¹ The rules governing the use of the combined initial disclosure document for packaged investment products, insurance and mortgages were consulted upon in CP187 *Insurance selling and administration & other miscellaneous amendments* (June 2003). The final rules will be published (as MCOB 4 Ann 2R) in 2004. See Chapter 4 of the Policy Statement on CP186 for further details.

customer makes an application for a regulated mortgage contract.

- 4.4.2 G *MCOB 4.4.1(2)(b)* means, for example, that a *mortgage lender* will provide the initial disclosure document in a direct sale but not where the sale involves a *mortgage intermediary*. If a number of different *firms* are involved in relation to the transaction, having regard to *MCOB 2.5.4R(2)*, those *firms* should take reasonable steps to establish that the *customer* has been provided with an initial disclosure document as required by *MCOB 4.4.1R*.
- 4.4.3 G (1) In many cases, *MCOB 4.4.1R(1)* means that the initial disclosure document will be provided at the time of the first contact between the *firm* and the *customer*. However, there may be circumstances, for example in relation to a loan for a business purpose, where the possibility of the *customer* entering into, or varying the terms of, a *regulated mortgage contract* is only identified after preliminary discussions. Disclosure, in the context of *MCOB 4*, is only required once this possibility is identified.
- (2) In the *FSA's* opinion, the requirements at *MCOB 4.4.1R* and *MCOB 4.4.7R* would not apply when a *customer* contacts a *firm* simply to arrange to receive personalised information or *advice* on a *regulated mortgage contract* at a later time, such as when a *customer* books an appointment. In such cases, initial disclosure should be made when the *firm* first makes contact with the *customer* with a view to actually giving the information or *advice*. However, *firms* should note the additional disclosure requirements in *MCOB 4.5* (Additional disclosure for distance mortgage mediation contracts with retail customers), and, the need to ensure that the required information (to be provided with the initial disclosure document) is provided in good time (see *MCOB 4.5.3G(1)*).
- 4.4.4 G If a *firm* has provided a *customer* with an appropriate initial disclosure document but subsequently discovers that the *customer* wants different services from those originally anticipated and described in the document, the *firm* will need to establish the details of the new service to be provided to the *customer* and provide the *customer* with a new initial disclosure document in accordance with *MCOB 4.4.1R* or *MCOB 4.4.7R*.

Uncertainty whether a mortgage is regulated

- 4.4.5 R (1) **If at the point that initial disclosure must be made in accordance with *MCOB 4.4.1R* or *MCOB 4.4.7R* a *firm* is uncertain whether the contract will be a *regulated mortgage contract*, the *firm* must:**
- (a) **provide the initial disclosure document; or**

- (b) seek to obtain from the *customer* information that will enable the *firm* to ascertain whether the contract will be a *regulated mortgage contract*.
- (2) Where (1)(b) applies, the initial disclosure document must be provided unless, on the basis of the information provided by the *customer*, the *firm* has reasonable evidence that the contract is not a *regulated mortgage contract*.

Information to be provided to customers on request

- 4.4.6 R
- (1) If a *firm's* scope of service is based on *MCOB 4.3.1R(1)(b)*, it must maintain, and keep up to date, in a *durable medium* and in a form which is appropriate for distribution to the *customer*, a list of the *mortgage lenders* whose *regulated mortgage contracts* it offers. This list must also confirm whether or not the *firm* provides services in relation to all of the *regulated mortgage contracts* generally available from each *mortgage lender*.
 - (2) The *customer* must be provided with a copy of the information described in (1) on request.
 - (3) A *firm* must take reasonable steps to ensure that its *appointed representatives* provide a copy of the record in (1) to a *customer* on request.

Disclosure where initial contact is by telephone

- 4.4.7 R
- (1) If the initial contact of a kind in *MCOB 4.4.1R(1)* is by telephone, then unless *MCOB 4.4.1R(2)(a)* applies, the following information must be given before proceeding further:
 - (a) the name of the *firm* and (if the call is initiated by or on behalf of the *firm*) the commercial purpose of the call;
 - (b) the scope of the service provided by the *firm* (within the meaning of *MCOB 4.3.1R*);
 - (c) if the scope of the service is not based on the whole market, that the *customer* can request a copy of the list of *mortgage lenders* whose *regulated mortgage contracts* it offers and confirmation of whether the *firm* provides services in relation to all of the *regulated mortgage contracts* generally available from each *mortgage lender*;
 - (d) whether or not the *firm* will provide the *customer* with *advice* on those *regulated mortgage contracts* within its scope; and

(e) that the information given under (a) to (d) will be confirmed in writing.

(2) Provided that the telephone call in (1) has not led the *firm* to conclude that the *customer* is ineligible for any of its *regulated mortgage contracts*, and that the *customer* has provided his contact details, the *firm* must send the *customer* a copy of the initial disclosure document required by *MCOB 4.4.1R(1)* and any other information required to be provided, in a *durable medium* within five *business days* of the telephone call (see also *MCOB 4.5.2R(2)(b)* for the equivalent requirement in relation to *distance mortgage mediation contracts*).

(3) If the *customer* accepts the offer in (1)(c) of a list of the *mortgage lenders* whose *regulated mortgage contracts* the *firm* offers, that list must also be sent with the information required in (2).

4.4.8 G *Firms* are reminded of the requirements in *MCOB 3.8* (Form and content of real time qualifying credit promotions) in relation to telephone calls that may fall within the definition of a *financial promotion* and should also note the additional requirements that apply in relation to *distance mortgage mediation contracts* with *retail customers* in *MCOB 4.5* (Additional disclosure for distance mortgage mediation contracts with retail customers).

4.5 Additional disclosure for distance mortgage mediation contracts with retail customers

4.5.1 G There are certain additional disclosure requirements laid down by the *Distance Marketing Directive* that will have to be provided by a *mortgage intermediary* to a *retail customer* prior to the conclusion of a *distance mortgage mediation contract*. The purpose of this section, *MCOB 4.5*, is to set out those additional requirements.

4.5.2 R If the initial contact of a kind in *MCOB 4.4.1R(1)* is with a *retail customer* with a view to concluding a *distance mortgage mediation contract*, a *firm* must:

(1) in addition to the initial disclosure information required by *MCOB 4.4.1R(1)(c)* and any other required information, provide the *retail customer* with the information in *MCOB 4 Ann 3R* in a *durable medium* in good time before the conclusion of the *distance mortgage mediation contract* with that *customer* unless an exemption in (2), (3), (4) or (5) applies.

(2) Exemption: telephone sales

(a) This exemption applies if the service is being provided on the telephone and the *customer* wishes to enter into a contract with the *firm*. Subject to the *customer* giving his explicit consent to receiving only limited disclosure, the *firm* must, prior to the conclusion of the contract on the telephone, provide the *customer* with the following information in addition to the information in *MCOB 4.4.7R(1)*:

- (i)** the name of the person in contact with the *customer* and his link with the *firm*;
- (ii)** the total price to be paid by the *customer* to the *firm* for the services, including all related *fees*, charges and expenses, and all taxes paid through the *firm* or, where an exact price cannot be indicated, the basis for the calculation of the price, enabling the *customer* to verify it;
- (iii)** notice of the possibility that other taxes or costs may exist that are not paid through the *firm* or imposed by it;
- (iv)** the information about cancellation rights set out in *MCOB 4 Ann 3R(5)*; and
- (v)** that other information is available on request, and the nature of that information.

(b) Where (a) applies, the *firm* must send the *retail customer* without delay and, at the latest immediately after a contract is concluded, the information in *MCOB 4 Ann 3R* and any other information required to be provided in accordance with *MCOB 4*, in a *durable medium*.

(3) Exemption: certain other means of distance communication

This exemption applies if the contract is concluded at the *retail customer's* request using a *means of distance communication* (other than telephone) which does not enable provision of the information referred to in *MCOB 4 Ann 3R* in a *durable medium* before the conclusion of the contract. In that case, the *firm* must provide the *retail customer* with the information in a *durable medium* immediately after conclusion of the *distance mortgage mediation contract*.

(4) Exemption: successive operations or separate operations under an initial service agreement

This exemption applies if the *firm* has an initial service agreement with the *retail customer* and the contract is in relation to a successive operation or a separate operation of the same nature under that agreement.

(5) Exemption: other successive or separate operations

This exemption applies if:

- (a) the *firm* has no initial service agreement with the *retail customer*; and**
- (b) the *firm* has performed an operation with the *retail customer* within the last year; and**
- (c) the contract is in relation to a successive operation or separate operation of the same nature.**

- 4.5.3 G (1) The information in *MCOB 4 Ann 3R* will be provided in ‘good time’ for the purposes of *MCOB 4.5.2R(1)*, if provided in sufficient time to enable the *customer* to consider properly the services on offer.
- (2) An example of the circumstances in which *MCOB 4.5.2R(4)* or *(5)* may apply is given in *MCOB 4.4.4G*. If the initial disclosure document and accompanying information (including that in *MCOB 4 Ann 3R*) was previously provided to a *customer* and continues to be appropriate, there is no need to provide the information again. If additional information is required, this may be provided by a supplementary document. However, if a service of a different nature is proposed, the *firm* is expected to provide a fresh initial disclosure document and, in respect of *distance mortgage mediation contracts* with *retail customers*, this will need to be accompanied by the information in *MCOB 4 Ann 3R*.

Tacit renewals

- 4.5.4 R **Before renewing a *distance mortgage mediation contract* with a *retail customer* which involves a request for immediate or deferred payment, a *firm* must obtain the *retail customer*’s prior consent.**

- 4.5.5 G It follows from *MCOB 4.5.4R* that, for a *distance mortgage mediation contract* to be automatically renewable on expiry, the *retail customer* will need to have agreed to this when the contract is first entered into.

4.6 Cancellation of distance mortgage mediation contracts

- 4.6.1 G A *retail customer* has no right to cancel a *regulated mortgage contract* concluded with a *firm* but may have a right to cancel a *distance contract* concluded with a *mortgage intermediary* for the provision of his services. Whether a *mortgage intermediary* concludes a *distance mortgage mediation contract* with a *retail customer* will depend on the circumstances. For example, an intermediary may not, in *advising on* or *arranging a regulated mortgage contract*, act contractually on behalf of, or for, the *customer*. In such circumstances, no *distance mediation contract* will arise for the *firm's* services, and therefore no right to cancel. If there is a contract between the *customer* and the *mortgage intermediary*, however, and therefore there is a right to cancel, the *firm* is required by *MCOB 4.5.2R(1)* to provide the information in *MCOB 4 Ann 3R(5)*.
- 4.6.2 G The information provided in accordance with *MCOB 4 Ann 3R(5)* should be sufficiently clear, prominent and informative to enable the *retail customer* to understand the right to cancel.
- 4.6.3 G Where the notice of the right to cancel forms part of another document, or is one of a number of documents sent to the *retail customer* at the same time, a *firm* should ensure that the presence of the notice of the right to cancel is drawn to the *retail customer's* attention.

Cancellation period

- 4.6.4 R (1) **A *retail customer* has a right to cancel a *distance mortgage mediation contract* in accordance with this section.**
- (2) **The right to cancel must be exercised within 14 days beginning on the later of:**
- (a) **the day of the conclusion of the contract; or**
 - (b) **the day on which the *retail customer* receives the contractual terms and conditions and other information required by *MCOB 4.4* and *MCOB 4.5*.**

Exercising the right to cancel

- 4.6.5 R A *retail customer* who has a right to cancel a *distance mortgage mediation contract* may, without giving any reason, cancel the contract by serving notice on the *firm*, before the expiry of the cancellation period in *MCOB 4.6.4R* either:
- (1) **by serving on, or otherwise sending by post, notice to the *firm's* last known address, addressed to the *firm*, its *appointed representative* or on any agent of the *firm* with authority to accept notice on the *firm's* behalf; or**

- (2) in accordance with any other practical instructions for exercising that right provided to the *retail customer* in accordance with *MCOB 4 Ann 3R(5)*.

4.6.6 R Where the notice of cancellation is in a *durable medium* and is served in accordance with *MCOB 4.6.5R*, it must be treated as being served on the *firm* on the date it is despatched by the *retail customer*.

4.6.7 G In the event of any dispute, unless there is clear written evidence to the contrary, the *firm* should treat the date cited by the *retail customer* as being the date when notice was given, posted or otherwise sent.

Effects of cancellation

4.6.8 R By exercising a right to cancel under *MCOB 4.6.4R* the *retail customer* withdraws from the contract and the entire contract is terminated.

4.6.9 G Regulation 11 (Automatic cancellation of an attached distance contract) of the *Distance Marketing Regulations*, has the effect that when notice of cancellation is given in relation to a contract, that notice also operates to cancel any attached contract, which is also a distance financial services contract. An example of such an attached contract might be a *distance non-investment insurance contract*.

4.6.10 R When a *retail customer* exercises a right to cancel under *MCOB 4.6.4R*:

(1) the *firm* must:

(a) pay to the *retail customer* without delay, and no later than 30 days after the date on which the *firm* received notice of cancellation from him, any sums which he has paid to or for the benefit of the *firm* in connection with the contract (including sums paid by the *retail customer* to agents of the *firm*) except for the amount referred to in (b);

(b) subject to (c), the *firm* is permitted to require the *retail customer* to pay for the services it has actually provided in connection with the contract; the amount payable, however, must be in accordance with the sums which the *retail customer* agreed to pay and must not:

(i) exceed an amount which is in proportion to the extent of the service already provided to the *retail customer* by the *firm*; and

(ii) be such that it could be construed as a penalty;

- (c) sub-paragraph (b) applies only if:
 - (i) where performance of the contract has commenced before expiry of the cancellation period, this was requested by the *retail customer*; and
 - (ii) the *firm* can demonstrate that the *retail customer* was provided with details of the amount which he may be required to pay if exercising his right to cancel in accordance with *MCOB 4 Ann 3R(5)*.
- (2) The *firm* is entitled to receive without delay, and no later than 30 days after the date on which the *retail customer* posted or otherwise sent notice of cancellation to the *firm* any property that became the *retail customer's* under the contract and any sums payable to the *firm* under (1)(b).

Record keeping

4.6.11 R Where notice of cancellation has been served on a *firm* (or its *appointed representative* or agent), the *firm* must make and retain a record (which includes a copy of any receipt of notice issued to the *retail customer* and the *retail customer's* original notice instructions) for three years from the date when the *firm* first became aware that notice of cancellation had been served.

4.7 Advised sales

Suitability

4.7.1 G *Principle 9* requires a *firm* to take reasonable care to ensure the suitability of its advice. In accordance with that *principle*, a *firm* should take reasonable steps to obtain from a *customer* all information likely to be relevant for the purposes of *MCOB 4.7*.

4.7.2 R A *firm* must take reasonable steps to ensure that it does not make a *personal recommendation* to a *customer* to enter into a *regulated mortgage contract*, or to vary an existing *regulated mortgage contract*, unless the *regulated mortgage contract* is, or after the variation will be, suitable for that *customer* (see *MCOB 4.3.4R(2)*, *MCOB 4.3.5G* and *MCOB 4.3.6G*).

4.7.3 R In *MCOB 4.7*, a reference to a recommendation to enter into a *regulated mortgage contract* is to be read as including a reference to a recommendation to vary an existing *regulated mortgage contract* if the context so requires.

4.7.4 R For the purposes of *MCOB 4.7.2R*:

- (1) a *regulated mortgage contract* will be suitable if, having regard to the facts disclosed by the *customer* and other relevant facts about the *customer* of which the *firm* is or should reasonably be aware, the *firm* has reasonable grounds to conclude that:
 - (a) the *customer* can afford to enter into the *regulated mortgage contract*;
 - (b) the *regulated mortgage contract* is appropriate to the needs and circumstances of the *customer*; and
 - (c) the *regulated mortgage contract* is the most suitable of those that the *firm* has available to it within the scope of the service provided to the *customer*;
- (2) no recommendation must be made if there is no *regulated mortgage contract* from within the scope of the service provided to the *customer* which is appropriate to his needs and circumstances; and
- (3) if a *firm* is dealing with an existing *customer* in *arrears* and has concluded that there is no suitable *regulated mortgage contract* for the purposes of *MCOB 4.7.2R*, the *firm* must nonetheless have regard to *MCOB 13.3.2E(1)(a)*, (e) and (f) (see also *MCOB 13.3.4G(1)(a)* and (b)).

4.7.5 R In relation to *MCOB 4.7.4R(1)(a)*, a *firm* must explain to the *customer* that the assessment of whether he can afford to enter into a *regulated mortgage contract* is based on:

- (1) current interest rates, which might rise in the future; and
- (2) the *customer's* current circumstances, which might change in the future.

4.7.6 R In relation to *MCOB 4.7.4R(1)(a)* and (b), where a *firm* makes a *personal recommendation* to a *customer* to enter into a *regulated mortgage contract* where a main purpose is to consolidate existing debts it must also take account of the following, where relevant, in assessing whether the *regulated mortgage contract* is suitable for the *customer*:

- (1) the costs associated with increasing the period over which a debt is to be repaid;
- (2) whether it is appropriate for the *customer* to secure a previously unsecured loan; and
- (3) where the *customer* is known to have payment difficulties, whether it would be more appropriate for the *customer* to

negotiate an arrangement with his creditors than to take out a *regulated mortgage contract*.

- 4.7.7 E (1) In assessing whether a *customer* can afford to enter into a particular *regulated mortgage contract*, a *firm* should give due regard to the following:
- (a) information that the *customer* provides about his income and expenditure, and any other resources that he has available;
 - (b) any likely change to the *customer's* income, expenditure or resources; and
 - (c) the costs that the *customer* will be required to meet once any discount period in relation to the *regulated mortgage contract* comes to an end (on the assumption that interest rates remain unchanged).
- (2) Contravention of *MCOB 4.7.7E(1)* may be relied upon as tending to show contravention of *MCOB 4.7.4R(1)(a)*.
- 4.7.8 G A *firm* may generally rely on any information provided by the *customer* for the purposes of *MCOB 4.7.4R(1)(a)* unless, taking a common-sense view of this information, it has reason to doubt it.
- 4.7.9 G *MCOB 4.7.4R(3)* explains that different considerations apply when making a *personal recommendation* to a *customer* in arrears. For example, the circumstances of the *customer* may mean that, viewed as a new transaction, a *customer* could not be recommended to enter into a *regulated mortgage contract*. In such cases, a *firm* will still be able to make a *personal recommendation* to that *customer* where this recommendation is, in the circumstances, a more suitable one than the *customer's* existing *regulated mortgage contract*.
- 4.7.10 G In complying with *MCOB 4.7.4R* 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*;
 - (2) rent a property, rather than purchase one; or
 - (3) delay entering into a *regulated mortgage contract* until a later date (on the grounds that property prices would have fallen in the intervening period, or that the interest rate in relation to the *regulated mortgage contract* would be lower, or both).
- 4.7.11 E (1) In assessing whether the *regulated mortgage contract* is appropriate to the needs and circumstances of the *customer* for the purposes of *MCOB 4.7.4R(1)(b)*, a *firm* should give due regard to the following:

- (a) whether the *customer's* requirements meet the eligibility criteria for the *regulated mortgage contract* (for example, the amount that the *customer* wishes to borrow, or the loan-to-value ratio);
- (b) whether the *customer* should have an *interest-only mortgage*, a *repayment mortgage*, or a combination of the two;
- (c) whether the *customer* has a preference for a particular term;
- (d) whether the *customer* has a preference or need for stability in the amount of required payments, especially having regard to the impact on the *customer* of significant interest rate changes in the future;
- (e) whether the *customer* has a preference or need for payments to be reduced at the outset (for example, a loan with an initial discount rate period);
- (f) whether the *customer* intends to make early repayments; and
- (g) whether the *customer* has a preference or need for any other features of a *regulated mortgage contract* (for example, payment holidays).

(2) Compliance with (1) may be relied upon as tending to show compliance with *MCOB 4.7.4R(1)(b)*.

4.7.12

G

(1) *MCOB 4.7.11E(1)(b)* does not require a *firm* to provide *advice on investments*. Whether such *advice* should be given will depend upon the individual needs and circumstances of the *customer*. Where considered relevant, *MCOB 4* does not restrict the ability of an adviser to refer the *customer* to another source of *investment advice* (for example, where the adviser is not qualified to provide *advice on investments*).

(2) Where the scope of the *advice* provided is restricted (within the meaning of *MCOB 4.3.1R(1)(b)* or (c)), *MCOB 4.7.4R(2)* means that the assessment of suitability should not be limited to the types of *regulated mortgage contracts* which the *firm* offers. *MCOB 4.7.4R(2)* prevents a *firm* recommending the 'least worst' *regulated mortgage contract* where the *firm* does not have access to products appropriate to the *customer's* needs and circumstances. It means, for example, that a *firm* dealing solely in the sub-prime market should not recommend one of these *regulated mortgage contracts* if approached for *advice* by a *customer* with an unblemished credit record.

- 4.7.13 E (1) **A *firm* should, out of all the *regulated mortgage contracts* identified as being appropriate for that *customer*, recommend the one that is the least expensive for that *customer* taking into account those pricing elements identified by the *customer* as being most important to him.**
- (2) **Compliance with (1) may be relied upon as tending to show compliance with *MCOB 4.7.4R(1)(c)*.**
- 4.7.14 G (1) With regard to *MCOB 4.7.13E(1)* different *customers* are likely to identify different pricing elements as being of most importance. For example, it may be the overall cost, the cost over the first five years, or the absence of *early repayment charges* that a *customer* considers most important.
- (2) *MCOB 4.7.13E(1)* does not prevent a *firm* from making a recommendation on other grounds. For example, it would be open to a *firm* to have regard to the speed or quality of service of different *mortgage lenders*, the policies of *mortgage lenders* on further lending or capital repayments, the underwriting stance of *mortgage lenders* or the *customer's* wish for a *regulated mortgage contract* that is compliant with Sharia law. The obligation to satisfy *MCOB 4.7.4R(1)(c)* remains the same in such cases.
- (3) If circumstances arise in which a *firm* has reasonable grounds to conclude that there are several *regulated mortgage contracts* that would satisfy the suitability requirement in *MCOB 4.7.4R*, the *firm* will act in conformity with that *rule* if it recommends only one of those *regulated mortgage contracts*.
- (4) If for any reason a *customer* rejects a recommendation made by a *firm* (for example, on the grounds that the *mortgage lender* selected is unknown to him), the *firm* can make a further recommendation (in accordance with the requirements of *MCOB 4.7*) where there remains a *regulated mortgage contract* that is appropriate to the needs and circumstances of the *customer*.

Rejected recommendations

- 4.7.15 R (1) **If a *customer* has:**
- (a) **rejected all of the *personal recommendations* made by a *firm* and requested information instead on a *regulated mortgage contract* that the *firm* does not consider suitable (and therefore could not recommend to the *customer* in accordance with *MCOB 4.7.2R*); and**

- (b) been issued with a new initial disclosure document in accordance with *MCOB 4.4.1R* or *MCOB 4.4.7R*;

the *firm* may be able to provide information on that *regulated mortgage contract* in the light of the information on which the *personal recommendations* in (1) were made.

- (2) If the *firm* needs to ask further questions regarding the needs and circumstances of the *customer* to be able to provide information on that *regulated mortgage contract*, the *firm* must obtain that information by asking scripted questions (in accordance with *MCOB 4.8.1R*).

4.7.16 G A *firm* may consider it prudent to record any cases where, after all *personal recommendations* it has made to a *customer* have been rejected, it changes the nature of the service it provides (as in *MCOB 4.7.15R*) and provides the *customer* with information about a *regulated mortgage contract*.

Record keeping

- 4.7.17 R (1) A *firm* must make and retain a record:
- (a) of the *customer* information, including that relating to the *customer's* needs and circumstances, that it has obtained for the purposes of *MCOB 4.7*; and
 - (b) that explains why the *firm* has concluded that any *personal recommendation* given in accordance with *MCOB 4.7.2R* satisfies the suitability requirements in *MCOB 4.7.4R(1)*. This explanation must include, where this is the case, the reasons why a *personal recommendation* has been made on a basis other than that described in *MCOB 4.7.13E(1)*.
- (2) The record in (1) must be retained for a minimum of three years from the date on which the *personal recommendation* was made.

4.8 Non-advised sales

4.8.1 R If a *firm* arranges a *regulated mortgage contract* without giving a *personal recommendation*, it must ensure that all the questions it asks the *customer* about the *customer's* needs and circumstances are scripted in advance.

4.8.2 G (1) *MCOB 2.2.6R* (Clear, fair and not misleading communications) applies to information provided to a *customer* in a non-advised sale, that is a sale of a *regulated mortgage contract* by a *firm* where the *firm* has not made a *personal recommendation* to the *customer* to enter into that particular *regulated mortgage contract*. In providing information on only a selection of the

regulated mortgage contracts that it deals with, a *firm* will need to ensure that the selection is fair and unbiased. Where the non-advised sales process leads to the identification of only one *regulated mortgage contract*, a *firm* should have regard to the *guidance* on scripted questions in *AUTH* App 4.6.21G to 4.6.25G.

- (2) In the course of a non-advised sale a *firm* may decide that a *customer* is considering a *regulated mortgage contract* that is inappropriate for that particular *customer*. Firms should note that, in such circumstances, although they are not providing *advice* to the *customer*, they are still conducting a *regulated activity* and are subject to the high level standards, including *PRIN. Principle 6* (Customers' interests) requires a *firm* to pay due regard to the interests of its *customers* and treat them fairly. A *firm* selling what it considered to be an inappropriate product, would be in breach of *Principle 6* as it would be conducting a *regulated activity* without regard to the *customer's* interests. In the *FSA's* opinion, the appropriate course in such cases would be for the *firm* to tell the *customer* to seek *advice*.

4.8.3 R Where *MCOB 4.8.1R* applies, the *firm* must ensure that staff using the scripted questions are:

- (1) trained in the use of the script;
- (2) trained in the difference between what constitutes a *personal recommendation* and what does not; and
- (3) instructed not to give a *personal recommendation* unless they meet the *TC* requirements for *advising on regulated mortgage contracts*.

4.8.4 R A *firm* must take reasonable steps to supervise staff who do not meet the *TC* requirements for *advising on regulated mortgage contracts* so that:

- (1) they do not give *personal recommendations*; and
- (2) when using scripted questions to comply with *MCOB 4.8.1R*, they adhere to the script in all material respects.

4.8.5 G (1) Scripted questions should be clear, fair and not misleading.

(2) A *firm* should ensure that the number of supervisory staff should be adequate for the size of the sales team, and supervisors should have the technical knowledge, assessment skills and coaching skills to act as a supervisor.

4.8.6 G A *firm* which, after using scripted questions to help a *customer* select a *regulated mortgage contract*, makes a *personal recommendation* about

a *regulated mortgage contract* to that *customer* will need to follow the *rules* governing the provision of *advice* in *MCOB 4* (including, but not limited to, the suitability requirements in *MCOB 4.7*).

Record keeping

- 4.8.7 R (1) A *firm* must make, and keep up to date, a record of the scripted questions required by *MCOB 4.8.1R*. The record must be made on the date on which the scripted questions are first used.
- (2) The record in (1) must be retained for one year from the date on which it was superseded by a more up-to-date record.

4.9 Business loans

4.9.1 R For the purposes of the *rules* in *MCOB 4* there is one market in *regulated mortgage contracts* for a business purpose. Within this market, a *firm* should describe its scope of service in accordance with *MCOB 4.3.1R*.

4.9.2 G Where a *personal recommendation* is provided in connection with a *regulated mortgage contract* for a business purpose it is recognised that there may be additional considerations beyond those described in *MCOB 4.7.11E* as part of the assessment of whether the *regulated mortgage contract* is appropriate to the needs and circumstances of the *customer*.

Initial disclosure document

4.9.3 G As explained in *MCOB 4.4.3G(1)* the requirement to provide an initial disclosure document is only triggered where the *firm* has identified the possibility that it will be giving personalised information or *advice* to a *customer* on a *regulated mortgage contract* for a business purpose.

4.9.4 G (1) *Firms* are reminded that *MCOB 1.2.7R* enables them to substitute an alternative for ‘mortgage’ in the initial disclosure document (except in relation to sections 6 and 8 of any initial disclosure document provided in accordance with *MCOB 4.4.1R(1)(c)(i)* or sections 5 and 8 of any initial disclosure document provided in accordance with *MCOB 4.4.1R(1)(c)(ii)*).

(2) *MCOB 1.2.7R* also means that a *firm* must amend the initial disclosure document in *MCOB 4 Ann 1R* so that the final sentence of prescribed text in section 4 states:

“You will receive an illustration which will tell you about any fees relating to a particular [term used by the firm to describe the borrowing, for example ‘mortgage’]”.

- (3) Where the initial disclosure document makes reference to the permitted business of a *firm* (for example, sections 6 and 8 of the initial disclosure document may refer to a *firm* advising on or arranging mortgages) a *firm* can add text explaining the relevance of these descriptions. One approach may be to add an additional sentence such as:

“Secured overdrafts are referred to here as ‘mortgages’ because they involve a charge being taken over your property”.

Non-advised sales

- 4.9.5 R** ***MCOB 4.8.1R* does not apply in relation to a *regulated mortgage contract* for a business purpose.**

This Annex belongs to *MCOB 4.4.1R(1)*

Firms must omit the notes and square brackets that appear in the following IDD. The IDD must contain the ‘key facts’ logo, headings and text in the order shown and in accordance with the Notes. [Note 1]

key facts about our mortgage services [Note 2]

XYZ FINANCIAL SERVICES
[Note 3] [Note 4]

[Note 5]
[123 Any Street
Some Town
ST21 7QB]

1. The Financial Services Authority (FSA)

The FSA is the independent watchdog that regulates financial services. It requires us to give you this document. Use this information to decide if our services are right for you.

2. Whose mortgages do we offer? [Note 6] [Note 7]

- We offer mortgages from the whole market.
- We [can] [Note 8] only offer mortgages from a limited number of lenders. Ask us for a list of the lenders we offer mortgages from. [Note 9]
- We [can] [Note 8] only offer [a limited range of the] mortgages from [a single lender] [name of single lender]. [Note 10]
[or]
[Name of lender] [can] only offer its own mortgages. [Note 11]

3. Which service will we provide you with? [Note 6]

- We will advise and make a recommendation for you after we have assessed your needs.
- You will not receive advice or a recommendation from us. We may ask some questions to narrow down the selection of products that we will provide details on. You will then need to make your own choice about how to proceed.

4. What will you have to pay us for this service? [Note 6]

- No fee [we will be paid by commission from the lender]. [Note 12]
- A fee [of £[] payable at the outset and £[] payable when you apply for a mortgage]. [Note 12] [Note 13]

You will receive a key facts illustration which will tell you about any fees relating to a particular mortgage

5. Refund of fees [Note 14] [Note15]

If we charge you a fee, and your mortgage does not go ahead, you will receive:

- A full refund [if the lender rejects your application]. **[Note 16]**
- A refund of £[] [if the purchase falls through]. **[Note 16] [Note 17]**
- No refund [if you decide not to take out a mortgage]. **[Note 16]**

6. Who regulates us? [Note 18]

[XYZ Financial Services] [123 Any Street, Some Town ST21 7QB] **[Note 19] [Note 5]** is authorised **[Note 20]** and regulated by the Financial Services Authority. Our FSA register number is [].

[or]

[Name of appointed representative] **[Note 4]** is an appointed representative of [name of *firm*] [123 Any Street, Some Town ST21 7QB] **[Note 19] [Note 5]** which is authorised and regulated by the Financial Services Authority. [Name of *firm*]'s FSA registration number is [].

Our permitted business is [advising on and arranging mortgages.] **[Note 21]**

You can check this on the FSA's Register by visiting the FSA's website www.fsa.gov.uk/register/ or by contacting the FSA on 0845 606 1234.

7. What to do if you have a complaint [Note 18]

If you wish to register a complaint, please contact us:

...in writing Write to: [XYZ Financial Services], [Complaints Department, 123 Any Street, Some Town, ST21 7QB].

... by phone Telephone [0121 100 1234]. **[Note 22]**

If you cannot settle your complaint with us, you may be entitled to refer it to the Financial Ombudsman Service.

8. Are we covered by the Financial Services Compensation Scheme (FSCS)? [Note 18] [Note 23]

We are covered by the FSCS. You may be entitled to compensation from the scheme if we cannot meet our obligations. This depends on the type of business and the circumstances of the claim.

Mortgage advising and arranging is covered for 100% of the first £30,000 and 90% of the next £20,000 so the maximum compensation is £48,000.

Further information about compensation scheme arrangements is available from the FSCS.

The following notes do not form part of the IDD.

Note 1 - subject to this, a *firm* may use its own house style and brand.

Note 2 – the *Financial Services Authority* has developed a common ‘key facts’ logo to be used on significant pieces of information directed to *customers*. The ‘key facts’ logo and the text “about our mortgage services” must be used and positioned as shown on the IDD. The logo may be re-sized, but it must be reasonably prominent and its proportions must not be distorted. When reproducing the logo, *firms* may use colour providing this does not diminish the prominence of the logo.

Note 3 – insert the *firm* or *appointed representative's* name (either the name under which it is *authorised* or the name under which it trades). A corporate logo or logos may be included.

Note 4 – if the IDD is provided by an *appointed representative*, insert the name of the *appointed representative*. (If an individual who is employed or engaged by an *appointed representative* provides the information, the individual should not put his or her own name on the IDD.)

Note 5 - insert the head office or if more appropriate the principal place of business from where the *firm* or *appointed representative* expects to conduct business with *customers*. (An *appointed representative* must not include the name and address of the *authorised firm* instead of its own)

Section 2: Whose mortgages do we offer?

Note 6 - *firms* must select, for example by ticking, the box which is appropriate for the service that they expect to provide to the *customer*.

Note 7 – if the IDD is provided by an *appointed representative*, the service described must be that offered by the *appointed representative*, in accordance with *MCOB* 4.3.10R.

Note 8 - insert “can” if the *firm's* range of *regulated mortgage contracts* is determined by any contractual obligation.

Note 9 – this sentence may be omitted if the *firm* chooses to list all of the lenders it offers mortgages from instead of the text “a limited number of lenders”, in the previous line, so long as the *firm* offers all of the mortgages generally available from each lender.

Note 10 – if the *firm* selects this box, it must insert the name of the lender. If the *firm* does not select this box, it must insert the words “a single lender” instead. If the *firm* does not offer all of the mortgages generally available from that lender, it must insert the words “a limited range of”, as shown. If the lender only has one mortgage product, the *firm* should amend the text to “We can only offer a mortgage from [name of single lender].”

Note 11 – if the *firm* is a *mortgage lender* offering only its own mortgages, or is part of a *mortgage lender* offering only the mortgages sold under that part’s trading name, it may use this alternative text.

Section 4: What will you have to pay us for this service?

Note 12 – if the *firm* receives commission instead of, or in addition to, *fees* from the *customer*, it must insert a plain language explanation of this.

Note 13 – insert a plain language description of when any *fees* are payable. This description could include, for example, a cash amount, a percentage of the loan amount or the amount per hour, as appropriate. However, where a cash amount is not disclosed, one or more examples of the cash amount must be included. If the *firm* offers more than one pricing option, it may illustrate each with a separate box.

Section 5: Refund of fees

Note 14 – if, in section 4, it has been indicated that there will be ‘No fee’, section 5 may be omitted altogether, and the following sections re-numbered accordingly.

Note 15 – firms must select as many boxes as are appropriate.

Note 16 – insert a plain language description of the circumstances in which the *fee* is refundable or not refundable as described.

Note 17 – the *firm* may delete this line if it does not offer a partial refund in any circumstances

Section 6: Who regulates us?

Note 18 – these sections may be omitted in accordance with *MCOB* 4.4.1R(3).

Note 19 – where the *authorised firm* trades under a different name from that under which it is *authorised*, it must include the name under which it is *authorised* and listed on the *FSA* register. It may also include its trading name if it wishes.

Note 20 - An *incoming EEA firm* will need to modify this section if it chooses to use this *IDD* (see *GEN* 4 Ann 1R(2)).

Note 21 - insert a plain language description of the business for which the *firm* has *permission* in relation to *regulated mortgage contracts*.

Section 7: What to do if you have a complaint

Note 22 - if different to the address in **Note 5**, give the address and telephone number that is to be used by *customers* wishing to complain.

Section 8: Are we covered by the Financial Services Compensation Scheme (FSCS)?

Note 23 – when an *incoming EEA firm* provides the *IDD*, it may modify this section as appropriate.

MCOB 4: Advising and selling

Annex 2 R

This Annex belongs to *MCOB 4.4.1R(1)*

[Rules and guidance for the combined IDD, for use where mortgage services are being provided at the same time as investment or insurance services, will be added here.]

1 Table Additional information requirements in respect of distance mortgage mediation contracts with retail customers

This table belongs to *MCOB 4.5.2R*

Additional information for distance contracts with retail customers	
All the contractual terms and conditions on which the service will be provided including, in particular, the following information:	
(1)	where the <i>firm</i> has a representative established in the <i>retail customer's EEA State</i> or other country of residence, the identity of that representative and the geographical address relevant to the <i>retail customer's</i> relations with him;
(2)	where the <i>retail customer's</i> dealings are with any professional other than the <i>firm</i>, the identity of that professional, the capacity in which he is acting with respect to the <i>retail customer</i>, and the geographical address relevant to the <i>retail customer's</i> relations with that professional;
(3)	in relation to the contract: (a) any limitations of the period for which the information provided is valid; (b) in relation to services performed permanently or recurrently, the minimum duration of the contract;
(4)	in relation to the cost of the service: (a) notice of the possibility that other taxes or costs may exist that are not paid through the <i>firm</i> or imposed by it; and (b) any specific additional cost to the <i>retail customer</i>, if any, for using a <i>means of distance communication</i>;

Additional information for distance contracts with retail customers

<p>(5)</p>	<p>the existence or absence of a right to cancel. Where there is such a right:</p> <ul style="list-style-type: none">(a) its duration and the conditions for exercising the right to cancel, including information on the amount which the <i>retail customer</i> may be required to pay (or which may not be returned to the <i>retail customer</i>) if the contract is terminated early or unilaterally under its terms;(b) the consequences of not exercising the right to cancel; and(c) practical instructions for exercising the right to cancel, including as a minimum the method in <i>MCOB 4.6.5R(1)</i>, details of the address to which the cancellation notice should be sent and the fact that the notice must clearly indicate, however expressed, the <i>retail customer's</i> intention to cancel the contract; and
<p>(6)</p>	<p>details of:</p> <ul style="list-style-type: none">(a) the <i>EEA State</i> or <i>States</i> whose laws are taken by the <i>firm</i> as a basis for the establishment of relations with the <i>customer</i> prior to the conclusion of the <i>regulated mortgage contract</i>;(b) any contractual clause on law applicable to the <i>regulated mortgage contract</i> or on competent court, or both; and(c) the language in which the contract is supplied and in which the <i>firm</i> will communicate during the course of the <i>regulated mortgage contract</i>.

5 PRE-APPLICATION DISCLOSURE

5.1 Application

Who?

5.1.1 R 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.

5.1.2 R Table

This table belongs to *MCOB 5.1.1R*

(1) Category of firm	(2) Applicable section
<i>mortgage lender</i> <i>mortgage adviser</i> <i>mortgage arranger</i>	whole chapter

What?

5.1.3 R (1) This chapter applies if a *firm*:

- (a) makes a *personal recommendation* to a *customer* to enter into a *regulated mortgage contract*; or
- (b) provides information to a *customer* that is specific to the amount that the *customer* wants to borrow on a particular *regulated mortgage contract*, including information provided in response to a request from a *customer*; or
- (c) provides the means for a *customer* to make an application to it;

in connection with entering into, or agreeing to enter into, a *regulated mortgage contract* provided by a *mortgage lender*, other than a *regulated lifetime mortgage contract* or a variation to an existing *regulated mortgage contract*.

(2) In relation to further advances and other variations, *MCOB 7* (Disclosure at start of contract and after sale) applies in place of *MCOB 5*, regardless of whether they are variations to an existing *regulated mortgage contract*, or are such that they involve the *customer* entering into a new *regulated mortgage contract*.

(3) **In relation to a regulated lifetime mortgage contract, MCOB 9 (Lifetime mortgage disclosure) applies in place of MCOB 5.**

5.1.4 G The table in MCOB 5.1.5G shows how the relevant *rules* and *guidance* in MCOB 5.6 apply to certain types of *regulated mortgage contracts*.

5.1.5 G This table belongs to MCOB 5.1.4G.

Type of Mortgage	Requirements that do not apply	Additional or alternative requirements
Multi-part mortgages	MCOB 5.6.42R(3) MCOB 5.6.46R	MCOB 5.6.28R MCOB 5.6.54R – MCOB 5.6.57G
Foreign currency mortgages	N/A	MCOB 5.6.127R – MCOB 5.6.128R
Shared appreciation mortgages	N/A	MCOB 5.6.129R – MCOB 5.6.131R
Deferred interest rate mortgages	N/A	MCOB 5.6.132R
Mortgages without a term or regular payment plan	MCOB 5.6.31R MCOB 5.6.40R – MCOB 5.6.57R MCOB 5.5.59R – MCOB 5.6.65R	MCOB 5.6.32R MCOB 5.6.134R – MCOB 5.6.145R

5.1.6 R **In this chapter, references to a regulated mortgage contract include, where the context requires, references to arrangements which are capable of becoming a regulated mortgage contract.**

5.1.7 G (1) MCOB 5.1.3R means that this chapter applies where the *customer* can apply to enter into a *regulated mortgage contract*. This includes circumstances where, for example, the means to apply is provided in person, by telephone, through a website or through an application pack sent through the post.

(2) The effect of this chapter is to require a *customer* to be provided with an *illustration* before he submits an application to a *mortgage lender*.

5.1.8 G Although an *illustration* is a *financial promotion* in respect of the *controlled activity* of providing *qualifying credit*, the effect of MCOB 3.2.5R(1), section 145(3) of the *Act* (Financial promotion rules) and article 28 of the *Financial Promotion Order* (One off non-real time

communications and solicited real time communications) is that an *illustration* is exempt from the provisions of *MCOB 3* (Financial promotion).

- 5.1.9 G Where part of the loan is not a *regulated mortgage contract*, for example it is a linked unsecured loan, the details of this loan can be shown in Section 12 of the *illustration* as an additional feature. It should not be added to the *regulated mortgage contract* loan amount in *MCOB 5.6.6R(2)*.
- 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 *FSA* a *waiver* of that *rule*. *SUP 8* contains details of the *waiver* procedure.

5.2 Purpose

- 5.2.1 G
- (1) *MCOB 5* amplifies *Principle 7*, which requires a *firm* to pay due regard to the information needs of its *customers* and to treat them fairly.
 - (2) The purpose of *MCOB 5* is to ensure that, before a *customer* submits an application for a particular *regulated mortgage contract*, he is supplied with information that makes clear:
 - (a) the features of that *regulated mortgage contract*;
 - (b) the price that the *customer* will be required to pay under that *regulated mortgage contract*, to enable the *customer* to assess whether it is affordable to him; and
 - (c) any *linked deposits*, any *linked borrowing* and any *tied products*.
 - (3) *MCOB 5* requires information to be disclosed in a consistent way to facilitate comparison between *regulated mortgage contracts* provided by different *mortgage lenders*.

5.3 Applying for a regulated mortgage contract

- 5.3.1 R **A mortgage lender must not enter into a regulated mortgage contract, or agree to do so, with a customer unless the customer has submitted an application for that particular regulated mortgage contract.**
- 5.3.2 G The purpose of *MCOB 5.3.1R*, taken in conjunction with other rules in this chapter, is to ensure that the *customer* has received details of the particular *regulated mortgage contract* for which he has applied, in the form of an *illustration*, and has had the opportunity to satisfy himself that it is appropriate for him. The application should identify the type of interest rate, rate of interest, and the *mortgage lender* at the point it

is submitted by the *customer* (for how to describe interest rates see *MCOB 5.6.26R* and *MCOB 5.6.27R*).

5.4 Illustrations: 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.

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*.

- 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 would increase following a one percentage point increase in interest rates in Section 7 of the *illustration*;

- (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 absolutely 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 in Section 10 of the illustration.

- 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%.
- 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.
- 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 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.

Illustrations where customer ineligible

- 5.4.8 R **A *firm* must not issue an *illustration* to a *customer* for a *regulated mortgage contract* for which the *customer* is clearly ineligible on the basis of the information that the *firm* has obtained from the *customer* or the *mortgage lender's* lending criteria.**
- 5.4.9 G The purpose of *MCOB* 5.4.8R is not to require a *firm* to ascertain whether a *customer* is eligible for a particular *regulated mortgage contract* before providing an *illustration*. Instead, the purpose is to ensure that the *firm* takes into account the information it has obtained from the *customer* before providing an *illustration* to the *customer*.

Explaining the importance of an illustration

- 5.4.10 R **In providing an *illustration* to a *customer*, a *firm* must explain to the *customer* the importance of reading the *illustration* and understanding it.**
- 5.4.11 G A *firm* may satisfy *MCOB* 5.4.10R by drawing the *customer's* attention orally to the importance of reading and understanding the *illustration*, 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 *illustration*.

Form of an illustration

- 5.4.12 R Any *illustration* provided to a *customer* by a *firm* must be in a *durable medium*.

Restriction on provision of information

- 5.4.13 R A *firm* must not provide a *customer* with information that is specific to the amount that the *customer* wants to borrow on a particular *regulated mortgage contract* except in the following circumstances:

- (1) when it is in the form of an *illustration*;
- (2) when it is provided on screen, for example a computer screen;
- (3) when supplementary information which is not contained within an *illustration* is provided after or at the same time as an *illustration*; or
- (4) when it is provided orally, for example by telephone.

- 5.4.14 R Where *MCOB 5.4.13R(2)* applies:

- (1) if the *customer* initiates the accessing of quotation information on screen (for example, by using the internet or interactive television), the following warning must be displayed prominently on each page on screen:

“This information does not contain all of the details you need to choose a mortgage. Make sure that you read the separate key facts illustration before you make a decision.”;
and

- (2) a *firm* must not provide a customised print function where the information on the screen would not be in the form of an *illustration* if the information were printed in hard copy.

- 5.4.15 R Where *MCOB 5.4.13R(3)* applies, supplementary information must only be provided when it does not significantly duplicate information provided in the *illustration*.

- 5.4.16 G *MCOB 5.4.13R* 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 *qualifying credit promotion* and be subject to the provisions of *MCOB 3* (Financial promotion).

5.4.17 G Where *MCOB 5.4.13R(2)* and *MCOB 5.4.13R(4)* apply, *firms* should encourage the *customer* to obtain a copy of an *illustration* in a *durable medium*. This could be done, for example, if the information was contained on the *firm's* website, by a prompt which asked the *customer* whether he wished to print off an *illustration*.

5.4.18 R (1) **Unless (2) applies, where *MCOB 5.4.13R(2)* or *MCOB 5.4.13R(4)* apply, a *firm* must provide the means for the *customer* to obtain an *illustration* as soon as practicable, through a delivery channel acceptable to the *customer*.**

(2) **A *firm* does not need to provide an *illustration* if the *customer* refuses to disclose key information (for example, in a telephone conversation, his name or a communication address) or where the provision of an *illustration* is not appropriate, for example, because on the basis of discussions undertaken the *customer* is ineligible given the *mortgage lender's* lending criteria, or is not interested in pursuing the enquiry.**

Record keeping

5.4.19 R **A *firm* must make an adequate record of each *illustration* that it issues to a *customer* in accordance with *MCOB 5.5.1R* where the *customer* applies for that particular *regulated mortgage contract*.**

5.4.20 R **The record required by *MCOB 5.4.19R* must be retained for a year from the date of the application made by the *customer*.**

5.4.21 G *MCOB 5.4.19R* does not require a *firm* to keep records of *illustrations* that are issued to a *customer* where the *customer* does not apply to enter into that particular *regulated mortgage contract*.

5.4.22 G The record maintained in accordance with *MCOB 5.4.19R* should contain or refer to matters such as:

- (1) the date on which the *illustration* was provided to the *customer*;
- (2) the date of the application made by the *customer*; and
- (3) details of the medium through which the *illustration* was provided.

Tied products

5.4.23 R **Where the *illustration* provided to the *customer* does not contain an accurate quotation or a reasonable estimate of the payments the *customer* will need to make in connection with any *tied product* that**

the *customer* must take out with the *regulated mortgage contract*, and the *customer* applies for that *regulated mortgage contract*:

- (1) the *firm* must provide the *customer* with an accurate quotation as soon as possible after he has applied, and in good time before the *offer document* is provided;**
- (2) the *customer* has a right to withdraw his application for the *regulated mortgage contract* for a period of seven days from receipt of the quotation referred to in (1);**
- (3) the quotation for the *tied product* must be accompanied by a notice explaining that the *customer* can withdraw his application and receive a full refund of any fees paid in connection with the application for that *regulated mortgage contract* (excluding any fees paid in respect of the *regulated activity of arranging or advising on a regulated mortgage contract* by a *mortgage lender* or a *mortgage intermediary*) for a period of seven days from receipt of the quotation or acceptance of the *mortgage lender's* offer if sooner; and**
- (4) the *firm* must refund any fees paid by the *customer* (excluding any fees paid in respect of any advice provided by a *mortgage lender* or a *mortgage intermediary*) if the *customer* decides to exercise his right to withdraw his application in accordance with (2).**

5.4.24 G The *rules* on the content of an *illustration* at MCOB 5.6 (Content of illustrations) mean that if the *regulated mortgage contract* requires the *customer* to take out a *tied product*, the *illustration* must include an accurate quotation or a reasonable estimate of the payments the *customer* would need to make for the *tied product* (see MCOB 5.6.52R(2) on a *repayment vehicle* that is a *tied product* and MCOB 5.6.74R on insurance that is a *tied product*). If it is not possible to include this cost information in the *illustration*, MCOB 5.4.23R requires that the *customer* be provided with an accurate quotation of the payments associated with the *tied product* as soon as possible. If the quotation is provided after the *customer* has applied for the *regulated mortgage contract* the *customer* has the right to a refund of fees if he withdraws his application.

5.5 Provision of illustrations

Timing

5.5.1 R (1) **A *firm* must provide the *customer* with an *illustration* for a *regulated mortgage contract* before the *customer* submits an application for that particular *regulated mortgage contract* to a *mortgage lender*, unless an *illustration* for that particular *regulated mortgage contract* has already been provided.**

- (2) **A firm must provide the customer with an illustration for a regulated mortgage contract when any of the following occurs, unless an illustration for that regulated mortgage contract has already been provided:**
- (a) **the firm makes a personal recommendation to the customer to enter into one or more regulated mortgage contracts, in which case an illustration must be provided at the point the recommendation is made (and illustrations for all recommended regulated mortgage contracts must be provided), unless the personal recommendation is made by telephone, in which case the firm must provide an illustration within 5 business days;**
 - (b) **the firm provides written information that is specific to the amount that the customer wants to borrow on a particular regulated mortgage contract; or**
 - (c) **the customer requests written information from the firm that is specific to the amount that the customer wants to borrow on a particular regulated mortgage contract, unless the firm does not wish to do business with the customer.**
- (3) **Subject to MCOB 5.5.4R, the firm may comply with (1) and (2) by providing an offer document containing an illustration, if this can be done as quickly as providing an illustration.**

- 5.5.2 G The effect of the requirements at MCOB 5.3.1R and MCOB 5.5.1R(1) is that if a customer's application to enter into a regulated mortgage contract with a mortgage lender, made via a mortgage intermediary, is subsequently passed by that mortgage intermediary to another mortgage lender, then the mortgage intermediary must ensure that the application is amended and the customer is provided with an illustration for the other mortgage lender's regulated mortgage contract before the application is passed to the other mortgage lender.
- 5.5.3 G If a firm chooses to issue an offer document in place of an illustration in accordance with MCOB 5.5.1R(3), it will need to comply with MCOB 6.4 (Content of the offer document), and in particular with MCOB 6.6 (Offer documents in place of illustrations).
- 5.5.4 R **A firm must not accept fees, commission a valuation, or undertake any other action that commits the customer to an application until the customer has had the opportunity to consider an illustration.**
- 5.5.5 G The effect of the requirements at MCOB 5.5.1R(1) and MCOB 5.5.4R is that a customer will be deemed to be committed to an application if, for example, he pays a product related fee (including a valuation fee)

or provides electronic or verbal authority to process an application. It is not necessary for a *customer* to provide a *mortgage lender* with a completed application form to submit an application for a *regulated mortgage contract*.

- 5.5.6 G Subject to *MCOB 5.5.1R* and *MCOB 5.5.15R* when an *illustration* is requested without delay, a *firm* may perform an internal credit score and obtain information on the *customer's* credit record from a credit reference agency (subject to the consent of the *customer*), in order to provide a *customer* with an approval in principle for a *regulated mortgage contract*, without having to provide an *illustration*.
- 5.5.7 R **The *firm* dealing directly with the *customer* is responsible for ensuring compliance with the content and timing requirements, that is, a *mortgage lender* is not responsible for ensuring that a *customer* has received an *illustration* before accepting an application from a *mortgage intermediary*.**
- 5.5.8 R **Where a *firm* has already provided an *illustration* in accordance with *MCOB 5.5.1R* and the terms for the proposed *regulated mortgage contract* are subsequently materially altered, the *firm* must ensure that the *customer* is provided with a revised *illustration*, before acting on the amendment, when the change occurs at the point at which a *customer* submits an application for the *regulated mortgage contract*.**
- 5.5.9 G What constitutes 'materially altered' requires consideration of the facts of each individual case. For example, a change of product such that the underlying terms and conditions of the *regulated mortgage contract* have changed should normally be regarded as material, as would an additional charge, such as a *higher lending charge*, applying to the *regulated mortgage contract* when it did not previously.
- 5.5.10 G Unless the *customer* requests a revised *illustration*, a *firm* is not required to provide one if the *customer* has already submitted an application, and an amendment is made subsequently. The *mortgage lender* should however ensure that any amendment is reflected in the *offer document*.

Uncertainty whether a mortgage is regulated

- 5.5.11 R (1) **If, at the point an *illustration* must be provided in accordance with *MCOB 5.5.1R*, a *firm* is uncertain whether the contract will be a *regulated mortgage contract*, the *firm* must:**
- (a) **provide an *illustration*; or**
 - (b) **seek to obtain from the *customer* information that will enable the *firm* to ascertain whether the contract will be a *regulated mortgage contract*.**

- (2) Where (1)(b) applies, an *illustration* must be provided, unless, on the basis of the information the *customer* provides, the *firm* has reasonable evidence that the contract is not a *regulated mortgage contract*.

5.5.12 G If the *firm* has reasonable evidence that the contract is not a *regulated mortgage contract* and has not provided an *illustration* before a *customer* submits an application, and it is subsequently found that the contract is a *regulated mortgage contract*, there is no requirement to provide a separate *illustration* at that stage. However, the requirement to integrate an *illustration* into the *offer document* at MCOB 6.4.1R will apply.

No preference between repayment and interest-only

5.5.13 R If the *customer* expresses no preference between a *repayment mortgage* and an *interest-only mortgage*, the *firm* must:

- (1) provide an *illustration* for a *repayment mortgage* (except where the *firm* does not provide *repayment mortgages*, in which case it must provide only an *illustration* for an *interest-only mortgage*); and
- (2) make the *customer* aware that it has provided the *illustration* on this basis.

Providing an illustration without delay in response to a customer request

5.5.14 G Where the *customer* requests written information from the *firm* that is specific to the amount that the *customer* wants to borrow on a particular *regulated mortgage contract* under MCOB 5.5.1R(2)(c), the purpose of MCOB 5.5.15R, MCOB 5.5.16R and MCOB 5.5.17G is to ensure that the *customer* receives an *illustration* without unnecessary delay. These requirements do not restrict the information that the *firm* may obtain from the *customer* after it has provided the *customer* with an *illustration*.

5.5.15 R In meeting a request under MCOB 5.5.1R(2)(c), the *firm* must not delay the provision of the *illustration* by requesting information other than:

(1) the information necessary to personalise the *illustration* in accordance with MCOB 5.6.6R, if the *firm* does not already know it;

(2) where the *firm* acts in accordance with MCOB 5.5.11R(2), such information as is necessary to ascertain whether or not the contract will be a *regulated mortgage contract*;

(3) where the *regulated mortgage contract* involves any *linked deposits* and the *firm* chooses to provide an example in the

illustration in accordance with *MCOB 5.6.109R(2)* or *MCOB 5.6.110R(2)*, or both, such information as is necessary to produce the example;

- (4) where the interest rates, payments or any other terms and conditions to be included in the *illustration* are dependent on the *customer's* credit record, such information as is necessary to produce an *illustration*;
- (5) where the *firm* includes a quotation for any *tied products* or compulsory insurance in the *illustration*, such information as is necessary to produce those quotations;
- (6) where the *customer* agrees to receive a quotation for insurance in the *illustration* (other than that provided for in (5)), such information as is necessary to produce those quotations; and
- (7) any of the following information where it affects the availability of the *regulated mortgage contract* that the *customer* has requested information on or affects the information to be included in the *illustration*:
 - (a) whether the *customer* is a first-time buyer, a subsequent buyer moving home or entering into a *regulated mortgage contract* without moving home;
 - (b) whether the *regulated mortgage contract* is required for a right-to-buy purchase or for a shared ownership purchase;
 - (c) whether the *customer* needs to self-certify his income;
 - (d) the location of the property to be purchased, where known; and
 - (e) whether the terms are dependent on a third party guarantee.

5.5.16 R Where *MCOB 5.5.15R(4)* applies:

- (1) a *firm* must ask the *customer* relevant questions about his credit history or obtain information on his 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 *customer* the relevant questions about his credit history; or
 - (b) the *customer* is not able to provide sufficient information on his credit history.

- 5.5.17 G A *firm* may use information that it already holds on the *customer* for the purpose of producing the *illustration* (for example, if it already holds the *customer's* credit record), providing the use of this information does not delay the *customer* receiving the *illustration* and the *customer's* consent is obtained where appropriate.
- 5.5.18 R **If, on the basis of the information obtained from the *customer* or on the basis of information that the *firm* already holds on the *customer*, the *firm* would do business with the *customer*, but not on the terms requested, the *firm* may provide the *customer* with an *illustration* in respect of a different *regulated mortgage contract* if it chooses to do so.**
- 5.6 **Content of illustrations**
- Purpose
- 5.6.1 G *MCOB 5.6* sets out the required content of an *illustration* provided to a *customer* by a *firm*.
- Content, order, format etc
- 5.6.2 R **An *illustration* provided to a *customer* must:**
- (1) **contain the material set out in *MCOB 5 Ann 1R* in the order and using the numbered section headings, sub-headings and prescribed text in *MCOB 5 Ann 1R*, except where provided for in *MCOB 5.6*;**
 - (2) **follow the layout of the template in *MCOB 5 Ann 1R* with:**
 - (a) **prominent use of the 'key facts' logo followed by the text 'about this mortgage' (if a *firm* resizes the logo it must ensure that the proportions remain consistent with the original design, so as not to distort it in any way);**
 - (b) **each section clearly separated;**
 - (c) **all the amounts to be paid in Sections 5, 6, 8 and 9 in columns that make the amounts of the payments clear; and**
 - (d) **no section split across different pages except where it is impractical not to do so;**
 - (3) **use font sizes and typefaces consistently throughout the *illustration* which are sufficiently legible so that the *illustration* can be read easily by a typical *customer*;**

- (4) ensure that the information within each section is clearly laid out (for example, through the use of bullet points or similar devices to separate information);
- (5) include prominent headings with the numbered section headings clearly differentiated in some way from the other text in the *illustration* (for example, through the use of larger and more prominent fonts, the use of shading or colour);
- (6) replace '[name of *mortgage lender*]' with the name of the *mortgage lender* providing the *regulated mortgage contract*: a trading name used by the *mortgage lender* may be stated, as long as the name of the *mortgage lender* is also disclosed in Section 4 of the *illustration* in accordance with *MCOB 5.6.25R(1)*;
- (7) describe any *early repayment charge* as an 'early repayment charge' and not use any other expression to describe such charges; and
- (8) describe any *higher lending charge* as a 'higher lending charge' and not use any other expression to describe such charges.

5.6.3 R Section 13 in *MCOB 5 Ann 1R* is required only where the *illustration* is provided to the *customer* by, or on behalf of, a *mortgage intermediary*. If this is not the case, Section 14 must be renumbered Section 13.

- 5.6.4 G
- (1) *Firms* can obtain from the *FSA* website <http://www.fsa.gov.uk> a specimen of the 'key facts' logo. When reproducing the logo *firms* may use colour providing this does not diminish the prominence of the logo.
 - (2) *MCOB 5.6.2R(3)* does not prevent the use of different fonts and typefaces for headings and risk warnings. Its purpose is to prevent particular sections of the *illustration* from being made less prominent than other sections through the inconsistent use of font sizes and typefaces.
 - (3) The *illustration* can contain the *mortgage lender's* or *mortgage intermediary's* logo and other 'brand' information, so long as the requirements of *MCOB 5.6* are satisfied.
 - (4) The *illustration* can contain page numbers and other references that aid understanding, record keeping and identification of a particular *illustration*, such as the date and time an *illustration* is produced or a unique reference number, provided these do not detract from the content of the *illustration*.

- (5) *Firms* are reminded of their general obligation for communications to *customers* to be clear, fair and not misleading. Sections of the *illustration* may be split across pages where it is practical to do so. 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

- 5.6.5 R The *illustration* provided to *customers* must:
- (1) contain only the material prescribed in *MCOB 5.6* and no other material except where provided for elsewhere in *MCOB 5.6*; 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*:
- (1) the specific *regulated mortgage contract* in which the *customer* is interested;
 - (2) the amount of the loan required;
 - (3) the price or value of the property on which the *regulated mortgage contract* would be secured (estimated where necessary);
 - (4) the term of the *regulated mortgage contract* (where the *customer* is unable to suggest a date at which he expects to repay the loan, for example in the case of an open-ended secured bridging loan, secured overdraft or *mortgage credit card*, then a term of 12 months must be assumed and this assumption stated); and
 - (5) whether the *regulated mortgage contract* is to be an *interest-only mortgage* or a *repayment mortgage* or a combination of the two.
- 5.6.7 G A *firm* should not illustrate more than one *regulated mortgage contract* in the same *illustration*, for example by using one *illustration* to compare alternative products, repayment methods or repayment terms.
- 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 and not misleading” in *MCOB 2.2.6R*, 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*.

- 5.6.9 **R** **The amount referred to in *MCOB 5.6.6R(2)* is:**
- (1) **in cases where on the basis of the information obtained from the *customer* before providing the *illustration* it is clear that the *customer* would not be eligible to borrow the amount he requested, an estimate of the amount that the *customer* could borrow based on the information obtained from the *customer*; or**
 - (2) **where the *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 *regulated mortgage contract*; or**
 - (3) **where it is known that the loan will be released in instalments, for example in the case of a self-build mortgage, the total amount of the loan required and not the amount of the initial instalment.**
- 5.6.10 **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 *regulated mortgage contract*.
- 5.6.11 **G** *MCOB 5.6.6R* sets out minimum requirements. The *illustration* may be personalised to a greater degree if the *mortgage lender* or *mortgage intermediary* wishes, subject to the restrictions on the information that can be obtained from the *customer* in *MCOB 5.5.15R* when the *illustration* is provided in accordance with *MCOB 5.5.1R(2)(c)*.
- 5.6.12 **G** *MCOB 5.6.9R(1)* does not require information to be obtained from the *customer* before providing an *illustration* in order to ascertain the amount the *customer* is eligible to borrow. Instead, its purpose is to avoid a *firm* being in a position where it would otherwise have to provide a *customer* with an *illustration* for an amount it knew the *customer* would not be eligible for, based on whatever information it had obtained from the *customer* before providing the *illustration*.
- 5.6.13 **R** **Where the *illustration* relates to a *regulated mortgage contract* that is sub-divided into different parts with different types of interest rate or different rates of interest or different conditions, or a combination of these, the requirements in *MCOB 5.6* may be adapted to accommodate this. The adaptations made must be limited to those that are necessary.**
- 5.6.14 **G** (1) *MCOB 5.6.13R* applies where, for example, the *illustration* covers a *regulated mortgage contract* that is:

- (a) divided so that a certain amount of the loan is payable on a fixed interest rate, and a certain amount on a discounted interest rate; or
 - (b) a combination of a *repayment mortgage* and an *interest-only mortgage* and the loan is subdivided into different types of interest rate and/or different rates of interest.
- (2) *MCOB 5.6.13R* does not apply where an *illustration* covers a *regulated mortgage contract* that is a combination of a *repayment mortgage* and an *interest-only mortgage* and the rate of interest charged, mortgage term and other conditions are the same. The treatment of such mortgages is covered in the relevant rules.

Information to be included at the head of the illustration

5.6.15 R At the head of the *illustration*, the following information must be included:

- (1) the *customer's* name;
- (2) the date of issue of the *illustration*;
- (3) details of how long the *illustration* is valid and whether there is any date by which the *regulated mortgage contract* covered by the *illustration* needs to commence (for example, where a fixed interest rate is only available if the *regulated mortgage contract* commences before a certain date); and
- (4) the prescribed text at the head of the illustration in *MCOB 5 Annex 1R*.

Section 1: 'About this illustration'

5.6.16 R Under the section heading 'About this illustration', the prescribed text in *MCOB 5 Annex 1R* under this heading must be included.

Section 2: 'Which service are we providing you with?'

- 5.6.17 R**
- (1) Unless (2) applies, under the section heading 'Which service are we providing you with?' the prescribed text in *MCOB 5 Annex 1R* under this heading must be included, with a 'check box' for each statement, one of which must be marked prominently to indicate the level of service provided to the *customer*.
 - (2) If the level of service described in the *illustration* is provided by another *firm*, (1) may be replaced by the following:

Under the section heading ‘Which service are we providing you with?’ the following text should be presented as two options, with a ‘check box’ for each option, one of which must be marked prominently to indicate the level of service provided to the *customer*:

“[name of *firm*] recommends, having assessed your needs, that you take out this mortgage.

[name of *firm*] is not recommending a particular mortgage for you. However, based on your answers to some questions, it is giving you information about this mortgage so that you can make your own choice”.

Section 3: ‘What you have told us’

- 5.6.18 R (1) Under the section heading ‘What you have told us’, the *illustration* must state the information that has been obtained from the *customer* under *MCOB 5.6.6R* (apart from *MCOB 5.6.6R(1)* which is provided for in Section 4 of the *illustration*), and can include brief details of any other information that has been obtained from the *customer* and used to produce the *illustration*.
- (2) If the amount on which the *illustration* is based includes the amount that the *customer* wants to borrow plus charges and other payments that have been added to the loan:
- (a) except where (b) applies, this section must include the following text after the loan amount from *MCOB 5.6.6R(2)*:
- “plus £[insert total amount of fees and other charges added to the loan] for fees that will be added to the loan – see Section 8 for details.”; or
- (b) where there are other fees or charges that the *customer* must pay that have not been added to the loan, this section must include the following text after the loan amount from *MCOB 5.6.6R(2)*:
- “plus £[insert total amount of fees and other charges added to the loan] for fees that will be added to the loan. These and the additional fees that you need to pay are shown in Section 8.”
- (3) If the amount on which the *illustration* is based includes the amount that the *customer* wants to borrow plus insurance premiums (other than a *higher lending charge* or where the premium is repaid over a term of 12 months or less) that have been added to the loan:

- (a) except where (b) applies, this section must include the following text after the loan amount from *MCOB 5.6.6R(2)* (which may be combined with the prescribed text in (2) if applicable):

“plus £[insert amount of premium to be added to the loan] for insurance premiums that will be added to the loan – see Section 9 for details.”; or

- (b) where there are other insurance premiums that the *customer* must pay that have not been added to the loan, this section must include the following text after the loan amount from *MCOB 5.6.6R(2)* (which may be combined with the prescribed text in (2) if applicable):

“plus £[insert amount of premium to be added to the loan] for insurance premiums that will be added to the loan. These and any additional insurance premiums that you need to pay are shown in Section 9.”

- (4) If the amount on which the *illustration* is based does not involve any charges or payments being added to the amount to be borrowed, but there are charges that must be paid by the *customer*, Section 3 of the *illustration* must include the following text after the loan amount from *MCOB 5.6.6R(2)*:

“No fees have been added to this amount but the fees you need to pay are shown in Section 8.”

- (5) If the *regulated mortgage contract* on which the *illustration* is based has no charges or payments that must be paid by the *customer* (that is, there are no fees to pay in Section 8), and no insurance premiums are being added to the loan, Section 3 of the *illustration* must include the following text after the loan amount from *MCOB 5.6.6R(2)*:

“We do not charge any fees for this mortgage.”

5.6.19

R Where the same *illustration* covers a *regulated mortgage contract* that is a combination of a *repayment mortgage* and an *interest-only mortgage*, either:

- (1) Section 3 of the *illustration* must state the amount the *customer* wishes to borrow as a *repayment mortgage* and the amount required as an *interest-only mortgage*; or
- (2) Section 3 of the *illustration* must summarise the repayment method as partly an *interest-only mortgage* and partly a *repayment mortgage*, and Section 4 of the *illustration* must

state the amount the *customer* wishes to borrow as a *repayment mortgage* and the amount required as an *interest-only mortgage*.

- 5.6.20 R Where the same *illustration* covers a *regulated mortgage contract* that has different parts of the loan over a different term (that is, the final repayment date of the loan parts are different), either:
- (1) Section 3 of the *illustration* must state the amount repayable over each term; or
 - (2) Section 3 of the *illustration* must state the longest term that applies and Section 4 of the *illustration* must state the amount repayable over each term.
- 5.6.21 R For the purpose of illustrating to the *customer* the repayment method in Section 3 or Section 4 of the *illustration*, or the cost of the *regulated mortgage contract* in Section 5 of the *illustration*, if the *illustration* covers a *regulated mortgage contract* that is a combination of more than one interest-only part on the same product terms but with different repayment dates, the *illustration* must either treat it as one part by assuming the longest term, or alternatively treat it as a multi-part loan.
- 5.6.22 R At the end of Section 3 of the *illustration* a statement must be included making clear that changes to any of the information obtained from the *customer*, and where appropriate to the valuation of the property, could alter the details elsewhere in the *illustration*, and encouraging the *customer* to ask for a revised *illustration* in this event.
- 5.6.23 G An example of the type of statement that would satisfy *MCOB* 5.6.22R is:
- “The valuation that will be carried out on the property and changes to any of the information you have given us could alter the information in this illustration. If this is the case please ask for a revised illustration.”
- 5.6.24 G The purpose of the *illustration* is to provide the *customer* with details of the cost of borrowing the amount required over the term specified in *MCOB* 5.6.6R(2) and *MCOB* 5.6.6R(4). Section 12 has been designed specifically to illustrate any additional features of the *regulated mortgage contract* such as a linked current account, a linked savings account or the availability of *unsecured lending*. These features should therefore be shown in Section 12 and not in Section 3 of the *illustration*.
- Section 4: ‘Description of this mortgage’**
- 5.6.25 R Under the section heading ‘Description of this mortgage’ the *illustration* must:

- (1) state the name of the *mortgage lender* providing the *regulated mortgage contract* to which the *illustration* relates (a trading name used by the *mortgage lender* may also be stated in accordance with *MCOB 5.6.2R(6)*), and the name, if any, used to market the *regulated mortgage contract*;
- (2)
 - (a) provide a description of the interest rate type and rate of interest that applies in accordance with the format described in *MCOB 5.6.26R* and *MCOB 5.6.27R*;
 - (b) where there is more than one interest rate type or rate of interest, specify the amount of the loan to which each interest rate type and rate of interest applies;
 - (c) unless the interest rate applies for the full term of the loan, confirm what interest rate will apply, when it will apply and for how long it will apply after any initial interest rate ends, in accordance with the format described in *MCOB 5.6.26R* and *MCOB 5.6.27R*; and
 - (d) provide a clear explanation of the charging approach where different interest rates are applied to different items of debt (for example, for a *mortgage credit card* where a different interest rate applies to balances that are transferred from that charged on any additional borrowing);
- (3) where *MCOB 5.6.20R(2)* applies, state the different amounts repayable and the different terms over which the amounts are repayable;
- (4) where *MCOB 5.6.19R(2)* applies, state the amount repayable under an *interest-only mortgage* and the amount repayable under a *repayment mortgage*;
- (5) include the following text if the *regulated mortgage contract* meets the Government's mortgage CAT standards:

“This mortgage meets the Government's CAT standards. Further information on mortgage CAT standards is available from the FSA (www.fsa.gov.uk/consumer) or by calling 0845 606 1234.”;
- (6) if the *customer* is obliged to buy any *tied products* or to take out a linked current account, a linked savings account or any *linked borrowing* under the *regulated mortgage contract*, include:

- (a) details of the products required; and
- (b) the following text:

“You are obliged to take out [insert details of the product(s)] through [insert name of *mortgage lender* or if relevant, name of *mortgage intermediary*] as a condition of this mortgage. Please refer to Section [insert applicable section number e.g. 6 or 9] of this illustration for further details.”;

- (7) state very briefly any restrictions that apply to the availability of the *regulated mortgage contract* (for example, if it is only available to certain types of *customer* or for certain types of loan);
- (8) where the interest rate, payments or terms and conditions of the *regulated mortgage contract* in the *illustration* reflect a *customer’s* adverse credit history, include the following text:

“The terms of this mortgage reflect past or present financial difficulties.”; and
- (9) where the intention of the *regulated mortgage contract* is solely to provide the *customer* with a *mortgage credit card* (rather than the *mortgage credit card* being an additional feature of a *regulated mortgage contract*) include the warning about the loss of statutory rights from *MCOB 5.6.102R(2)* in Section 4 of the *illustration* rather than Section 12.

5.6.26 R *MCOB 5.6.27R* sets out some examples of descriptions of interest rate types and rates of interest which must be used in the *illustration* to comply with *MCOB 5.6.25R(2)*. If an interest rate is not described in *MCOB 5.6.27R*, it must be presented in the *illustration* in a way that is consistent with the descriptions in *MCOB 5.6.27R*.

5.6.27 R Description of interest rate types and rates of interest.

This table belongs to *MCOB 5.6.26R*:

Description of the interest rate	Amount payable in each instalment
Lender’s base mortgage rate – must be described as the [Lender]’s standard variable rate, currently X% [where applicable insert the date at which the interest rate ends or period for which the interest rate applies].	Amount based on X%.
Fixed rate – must be described as a fixed rate of X% [where applicable insert the date at which the interest rate ends or the period for which the interest rate applies].	Amount based on the fixed rate of X%.
Discounted rate – must be described as a variable rate currently X% with a discount of Y% [where applicable insert the date at which the discount ends or the period for which the discount applies], giving a current rate payable of Z%.	Amount based on Z%.
Capped rate – must be described as a variable rate currently X% which will not go above a ceiling of Y% [where applicable insert the date at which the capped interest rate ends or the period for which the capped interest rate applies].	Amount based on the current interest rate payable (X%).
Capped and collared – must be described as a variable rate currently X%, which will not go below a floor of Y%, or above a ceiling of Z% [where applicable insert the date at which the capped and collared interest rate ends or the period for which the capped and collared interest rate applies].	Amount based on the current interest rate payable (X%).
Tracker rate – must be described as a variable rate which is [X% above/X% below/the same as] [insert interest rate tracked, currently Z%] [where applicable insert the date at which the rate ends or the period for which the interest rate applies], to give a current rate payable of Y%. Details should also be provided of how soon after an interest rate change the mortgage interest rate is adjusted.	Amount based on Y%.
Deferred rate – must be described as a variable rate currently X% where Y% is not paid now but is added to your mortgage [where applicable insert the date at which the deferred interest rate ends or the period for which the deferred interest rate applies], to give a current rate payable of Z%.	Amount based on Z%.
Stepped rate where different interest rates apply over different time periods (for example, fixed interest rate in year 1 changes in year 2). Each element should be dealt with individually as above.	Amount for each of the ‘steps’.

Combinations of the above must be treated in the same way as the descriptions above, (for example, if a discounted interest rate has a ‘floor’ then it must be described as such).

Follow the above treatment depending on the combination.

- 5.6.28 R Where the loan under the *regulated mortgage contract* is divided into more than one part (for example where part of the loan is a fixed interest rate and part of the loan is a discounted variable interest rate) and the *firm* displays this in a tabular format in the *illustration*:
- (1) the following text must be used to introduce the table “As this mortgage is made up of more than one part, these parts are summarised below:”;
 - (2) each part must be numbered for ease of reference in the *illustration*;
 - (3) the ‘initial rate payable’ must be displayed separately from the interest rate description;
 - (4) the loan amounts must be totalled; and
 - (5) immediately following the table, a statement of what interest rates will apply to each part, (and when they will apply) after any initial interest rate ends in accordance with *MCOB 5.6.25R(2)(c)*.
- 5.6.29 R Further information about the *regulated mortgage contract* may be included in Section 4 of the *illustration* as long as it does not significantly:
- (1) duplicate information contained elsewhere in the *illustration*; and
 - (2) extend the length of this section.
- 5.6.30 G An example of further information that may be included in accordance with *MCOB 5.6.29R* might be that an ‘approval in principle’ has been granted subject to valuation and satisfactory credit reference.
- Section 5: ‘Overall cost of this mortgage’
- 5.6.31 R Under the section heading ‘Overall cost of this mortgage’ where the *regulated mortgage contract* has an agreed term for repayment and a regular payment plan (that is, it is not a revolving credit agreement such as a secured overdraft or *mortgage credit card*, or a *regulated mortgage contract* where all of the interest rolls up, such as an open-ended bridging loan):
- (1) the following text must be included in the *illustration*:

“The overall cost takes into account the payments in Sections 6 and 8 below.”;

- (2) if all of the *regulated mortgage contract* to which the *illustration* relates is an *interest-only mortgage*, the following text must follow the text in (1):

“However, it excludes any payments that you may need to make into a separate savings plan, to build up a lump sum to repay the amount borrowed, but assumes that you pay off the amount borrowed as a lump sum at the end of the mortgage.”;

- (3) where all of the *regulated mortgage contract* is a *repayment mortgage*, the following text must follow the text in (1):

“With a repayment mortgage you gradually pay off the amount you have borrowed, as well as the interest, over the life of the mortgage.”;

- (4) if part of the *regulated mortgage contract* to which the *illustration* relates is an *interest-only mortgage*, and part is a *repayment mortgage*, the following text must follow the text in (1):

“However, it excludes any payments that you may need to make into a separate savings plan to build up a lump sum to repay the amount borrowed on an interest-only basis, but assumes that you pay off the amount borrowed on an interest-only basis, as a lump sum at the end of the mortgage.”; and

- (5) reference must be made to any other payments that have been included in the *APR* but not included in Sections 6 and 8 of the *illustration* if these are relevant to the *regulated mortgage contract* that is the subject of the *illustration*.

5.6.32

R Under the section heading ‘Overall cost of this mortgage’ where the *regulated mortgage contract* has no agreed term for repayment, (and a 12 month term has been assumed), or no regular payment plan, or both (for example, a revolving credit agreement such as a secured overdraft or *mortgage credit card* or a *regulated mortgage contract* where all the interest rolls up such as an open-ended bridging loan):

- (1) the following text must be included in the *illustration*:

“The overall cost takes into account the payments in Sections 6 and 8 below.”;

- (2) where all the interest on the *regulated mortgage contract* rolls up and is repaid as a lump sum at the end of the

regulated mortgage contract, for example a secured bridging loan, then the following text must follow the text in (1):

“It assumes that you pay back the total amount owing as a lump sum at the end of the mortgage term.”;

- (3) where the *regulated mortgage contract* is a revolving credit agreement and no regular payments are made, for example a secured overdraft, then the following text must follow the text in (1):

“It assumes that you borrow the maximum amount available, and pay back the total amount owing, as a lump sum at the end of the mortgage term.”;

- (4) where the *regulated mortgage contract* is a revolving credit agreement and regular minimum payments are made, for example, a *mortgage credit card*, then the following text must follow the text in (1):

“It assumes that you borrow the maximum amount available, make regular payments of the minimum amount, and pay back the remaining amount owing as a lump sum at the end of the mortgage term.”; and

- (5) reference must be made to any other payments that have been included in the *APR* but not included in Sections 6 and 8 of the *illustration* if these are relevant to the *regulated mortgage contract* that is the subject of the *illustration*.

5.6.33 G *MCOB* 5.6.31R(5) and *MCOB* 5.6.32R(5) would require, for example, a reference to the fact that the overall cost takes into account mortgage payment protection insurance where this is required as a condition of the *regulated mortgage contract* to which the *illustration* relates. The requirement to take out such insurance must be stated in Sections 4 and 9 of the *illustration* in accordance with *MCOB* 5.6.25R(6), *MCOB* 5.6.74R or *MCOB* 5.6.77R.

5.6.34 R The following text must be included after the text required by *MCOB* 5.6.31R or *MCOB* 5.6.32R with the relevant cost measures shown in the right-hand column of Section 5 in accordance with the layout shown in *MCOB* 5 Ann 1R:

- (1) **“The total amount you must pay back, including the amount borrowed is £[insert *total amount payable*]”;**
- (2) **“This means you pay back £ [insert the *total amount payable* divided by the amount on which the *illustration* is based from *MCOB* 5.6.6R(2)] for every £1 borrowed”;** and
- (3) **“The overall cost for comparison is [insert the *APR*] % *APR*”.**

- 5.6.35 R (1) The *APR* and the *total amount payable* in *MCOB 5.6.34R* must be calculated on the basis of information obtained from the *customer* under *MCOB 5.6.6R*.
- (2) Where there is a charge to be included in the *APR* and *total amount payable* and the precise amount of that charge is not known at the time that the *illustration* is provided, *MCOB 10.3* (Formula for calculating the *APR*) sets out a number of relevant assumptions to be used. If the method for including the charge is not addressed in *MCOB 10* (Annual Percentage Rate), the charge must be estimated based on information which is known to be representative of the *regulated mortgage contract* to which the *illustration* relates.
- (3) Where all the interest rolls up and is repaid as a lump sum at the end of the *regulated mortgage contract*, as, for example, in case of a secured bridging loan, the *APR* and *total amount payable* must be based on the total amount that the *customer* would owe at the end of the term.
- (4) Where the *regulated mortgage contract* is a revolving credit agreement and regular payments are made, for example, a *mortgage credit card*, then the *APR* and *total amount payable* must be based on the maximum amount that the *customer* could borrow and take into account any amounts that must be paid in regular instalments.
- 5.6.36 G In relation to *MCOB 5.6.35R(2)*, the cost of conveyancing would be an example of a charge for which representative information may need to be used in the calculation of the *APR* and the *total amount payable*.
- 5.6.37 R At the end of Section 5 of the *illustration* the following text must be included:
- (1) unless the interest rate is fixed throughout the term of the *regulated mortgage contract*:
- “The figures in this section will vary following interest rate changes and if you do not keep the mortgage for [insert term from *MCOB 5.6.6R(4)*].”; and
- (2) (a) where the *regulated mortgage contract* is a *repayment mortgage*:
- “Only use the figures in this section to compare the cost with another repayment mortgage.”; or
- (b) where the *regulated mortgage contract* is an *interest-only mortgage*:
- “Only use the figures in this section to compare the cost with another interest-only mortgage.”; or

- (c) where the *regulated mortgage contract* is a combination of a *repayment mortgage* and an *interest-only mortgage*:

“Only use the figures in this section to compare the cost with another mortgage that has the same proportions of the loan on repayment and interest-only as this one.”

- 5.6.38 G The purpose of the *illustration* is to provide the *customer* with details of the cost of borrowing the amount required over the term specified from *MCOB 5.6.6R(2)* and *MCOB 5.6.6R(4)*. Section 12 has been designed specifically to allow examples of the effect of any additional features of the *regulated mortgage contract* such as a linked current account or a linked savings account. Examples of these features should therefore be shown in Section 12 and not in Section 5 or Section 6 of the *illustration*.
- Section 6: ‘What you will need to pay each [insert frequency of payments from *MCOB 5.6.40R*]’**
- 5.6.39 R *MCOB 5.6.40R* to *MCOB 5.6.57G* do not apply to loans without a term or regular payment plan where some or all of the interest rolls up, for example secured bridging loans, secured overdrafts or *mortgage credit cards*. In these cases, *MCOB 5.6.134R* to *MCOB 5.6.138G* apply.
- 5.6.40 R The heading for Section 6 of the *illustration* and the heading of the column on the right-hand side of this section must state the frequency with which payments must be made by the *customer*. (For example, if payments are to be made on a monthly basis, the heading for this section must be ‘What you will need to pay each month’ and the column must be headed ‘Monthly payments’.)
- 5.6.41 R All the payments in Section 6 of the *illustration* must be calculated based on the frequency used for the purposes of the headings in *MCOB 5.6.40R* and must be shown in the column on the right-hand side of this section.
- 5.6.42 R Section 6 of the *illustration* must contain the following information:
- (1) the loan amount on which the *illustration* is based. This figure should include all fees, charges and insurance premiums that have been added to the loan in accordance with *MCOB 5.6.18R(2)* and *MCOB 5.6.18R(3)*, and the following text must follow the loan amount:
- “and includes the [fees] [and] [insurance premiums] that are shown in [Section 8] [and] [Section 9] as being added to your mortgage.”**

- (2) the assumed start date that has been used in the *illustration* to estimate the number of payments to be charged at given interest rates must be stated using the following text:
- “This illustration assumes that the mortgage will start on [insert assumed start date].”; and
- (3) except where *MCOB 5.6.54R* applies, for each of the interest rates charged on the *regulated mortgage contract*:
- (a) the number of payments at that interest rate;
 - (b) whether the interest rate is fixed or variable;
 - (c) the interest rate charged on the *regulated mortgage contract* at the time the *illustration* is issued; and
 - (d) the amount that the *customer* must pay in each instalment at that interest rate, which must be recorded in the right-hand column of this section (see *MCOB 5.6.48R*).

- 5.6.43 R Where the *illustration* covers a *regulated mortgage contract* that automatically converts from one repayment method to another after a specified period, then the *illustration* must show the effect of this change on the regular payment, in the same way as the requirements in *MCOB 5.6.42R(3)*.
- 5.6.44 G If appropriate, the two statements required by *MCOB 5.6.42R(1)* and *MCOB 5.6.42R(2)* may be merged, for example ‘These payments are based on a loan amount of £x and assume that the mortgage will start on [dd/mm/yy]’.
- 5.6.45 G *MCOB 5.6.42R(3)* applies to each interest rate charged on the *regulated mortgage contract* covered by the *illustration*. This means that it applies to different interest rates charged at different times, for example, where the interest rate changes at the end of any initial discounted, fixed or other special interest rate period.
- 5.6.46 R The following information must be included in the description of the interest rate required by *MCOB 5.6.42R(3)(c)* except where *MCOB 5.6.54R* applies:
- (1) where the interest rate can change, the word ‘currently’ must be used to illustrate the current interest rate payable; and
 - (2) where the interest rate changes after a given period the words ‘followed by’ must be used to indicate this.
- 5.6.47 G An example of how the information required by *MCOB 5.6.42R(3)* and *MCOB 5.6.46R* may be presented when there is an initial fixed interest

rate for a period of 22 months followed by the *mortgage lender's* standard variable interest rate for a period of 278 months is as follows:

“22 payments at a fixed rate of [...]%

followed by

278 payments at a variable rate, currently [...]%”.

- 5.6.48 R** The information required by *MCOB 5.6.42R(3)(d)* must exclude:
- (1)** the cost of repaying the capital if the *regulated mortgage contract* is an *interest-only mortgage*: where part of the *regulated mortgage contract* is an *interest-only mortgage*, the cost of repaying the capital must be excluded only for that part; and
 - (2)** the cost of any products which may be sold in conjunction with the *regulated mortgage contract* (whether *tied products* or not), unless the cost has been added to the mortgage.
- 5.6.49 R** If, because of the assumed start date of the *regulated mortgage contract*, the initial payment differs from the subsequent payments, the initial payment must be shown in this section in accordance with *MCOB 5.6.42R(3)(d)*.
- 5.6.50 R** Where the *illustration* covers a *regulated mortgage contract* that is a combination of a *repayment mortgage* and an *interest-only mortgage*, the payment amounts in *MCOB 5.6.42R(3)(d)* must be the combination of the amount to be paid on the *repayment mortgage* and the amount to be paid on the *interest-only mortgage*, unless *MCOB 5.6.13R* or *MCOB 5.6.54R* apply in which case they must be stated separately.
- 5.6.51 R** Where the interest is deferred on the *regulated mortgage contract*, the following text must be included under the information on the deferred interest rate included in the *illustration* in accordance with *MCOB 5.6.42R(3)*:
- “The interest deferred will be added to your mortgage. The table at Section [insert 6a or 6b if *MCOB 5.6.55R* applies] of this illustration shows how this will affect the amount you owe.”
- 5.6.52 R** Where all or part of the *regulated mortgage contract* to which the *illustration* relates is an *interest-only mortgage*:
- (1)** the *illustration* must include the sub-heading ‘Cost of repaying the capital’ with the following text under it:

“You will still owe [insert amount of loan on an interest-only basis] at the end of the mortgage term. You will need to make separate arrangements to repay this. When

comparing the payments on this mortgage with a repayment mortgage, remember to add any money that you may need to pay into a separate savings plan to build up a lump sum to repay this amount.”;

- (2) if the *regulated mortgage contract* requires the *customer* to take out a *repayment vehicle* that is a *tied product* either through the *mortgage lender* or *mortgage intermediary* then:
 - (a) include a sub-heading ‘Savings plan that you must take out through [insert name of *mortgage lender* or *mortgage intermediary*]’;
 - (b) include an accurate quotation or a reasonable estimate of the payments the *customer* will need to make for the *repayment vehicle*; and
 - (c) if a quotation cannot be provided under (b), state that a quotation is not available at present, that a quotation will be provided as soon as possible and that in the event that this is provided after an application is made, and is found to be unacceptable to the *customer*, that the application may be cancelled with a full refund of all fees (in accordance with *MCOB 5.4.23R(3)*).
- (3) if the *illustration* includes a quotation for the payments that would need to be made into the *repayment vehicle* by the *customer*:
 - (a) unless (2) applies, the *illustration* must include the sub-heading ‘Savings plan that you do not have to take out through [insert name of *mortgage lender* or *mortgage intermediary*]’;
 - (b) the *illustration* must provide a brief description only of the type of *repayment vehicle* illustrated (full details of the *repayment vehicle* may be provided separately);
 - (c) the quotation must be based on the frequency of payments in *MCOB 5.6.40R* and must be included in the column for payments alongside the description required by (b); and
 - (d) the *illustration* must refer the *customer* to the individual product disclosure documentation required by *COB*.
- (4) if a quotation for the *repayment vehicle* is not provided in the *illustration*, the *illustration* must include a ‘£’ sign in the

column for payments alongside the following text, which follows the text in (1):

“When you have found out what payments you need to make into a savings plan you may find it helpful to add these to your mortgage payments and put the total payment in the column opposite.”;

- (5) unless *MCOB 5.6.55R* applies, if a quotation for the *repayment vehicle* has been included in the *illustration* Section 6 must be extended to illustrate the monthly cost inclusive of the savings plan and must have the sub-heading “What you will need to pay each [insert frequency of payments from *MCOB 5.6.40R*] including the cost of a savings plan to repay the capital” and must include:
- (a) the information required by *MCOB 5.6.42R(3)* for each interest rate charged on the *regulated mortgage contract*; and
 - (b) the sum of what the *customer* would need to pay in each instalment for the *regulated mortgage contract* and for the *repayment vehicle* in the payments column. For example if payments are made monthly, this would be the amount that the *customer* would need to pay each month for the *regulated mortgage contract* and the *repayment vehicle*. Where different interest rates are charged on the *regulated mortgage contract* the amount payable in each instalment at each interest rate must be shown in the payments column.

5.6.53 G An example of how the information required by *MCOB 5.6.52R(1)*, *MCOB 5.6.52R(3)* and *MCOB 5.6.52R(5)* may be presented is as follows:

Cost of repaying the capital	
You will still owe £Z at the end of the mortgage term. You will need to make separate arrangements to repay this. When comparing the payments on this mortgage with a repayment mortgage, remember to add any money that you may need to pay into a separate savings plan to build up a lump sum to repay this amount.	
Savings plan that you do not have to take out through [insert name of <i>mortgage lender</i> or <i>mortgage intermediary</i>]	Monthly payments
XYZ savings plan (see separate product disclosure document)	£C
What you will need to pay each month including the cost of a savings plan to repay the capital	
36 payments at a fixed rate currently x% followed by:	£(A+C)
264 payments at a variable rate currently y%.	£(B+C)

Multi-part mortgages

5.6.54 R Where the loan under the *regulated mortgage contract* is divided into more than one part (for example, where part of the loan is on a fixed interest rate and part on a discounted variable interest rate) and the *firm* displays the initial cost of all parts, and the total cost, in a tabular format in the *illustration*, *MCOB 5.6.42R(3)* and *MCOB 5.6.46R* do not apply; instead:

- (1) each part must be numbered for ease of reference in the *illustration*;
- (2) the loan amounts must be totalled;
- (3) the number and frequency of each payment must be stated;
- (4) the repayment method for each part must be stated;
- (5) the ‘initial interest rate payable’ for each part must be stated ;
- (6) whether the interest rate payable is fixed or variable for each part must be stated; and
- (7) the regular payment for each part must be stated and the total payment for all parts highlighted (excluding the information listed in *MCOB 5.6.48R*).

- 5.6.55 R Unless all of the interest rates described in *MCOB 5.6.54R(5)* apply for the term of the loan part to which they apply, then an additional section numbered as 6a and titled “What you will need to pay in future” must be included to indicate the future stepped payments (if *MCOB 5.6.51R* also applies then the section on deferred interest must be numbered 6b). This section must:
- (1) state when a change in payment will occur;
 - (2) state the reason for the change in payment; and
 - (3) confirm that the payment illustrated assumes interest rates will not change.
- 5.6.56 R Where *MCOB 5.6.55R* applies and part of the *regulated mortgage contract* is an *interest-only mortgage*:
- (1) if a quotation for the *repayment vehicle* has been included in the *illustration* in accordance with *MCOB 5.6.52R(3)* then *MCOB 5.6.52R(5)* does not apply.
 - (2) a statement is required to indicate that these payments do not include the cost of any savings plan.
- 5.6.57 G An example of a statement which would meet the requirements of *MCOB 5.6.56R(2)* would be “Remember to add the cost of any savings plan to these monthly payments”.
- Section 7: ‘Are you comfortable with the risks?’
- 5.6.58 R *MCOB 5.6.59R* to *MCOB 5.6.65R* do not apply to loans without a term or regular repayment plan where some or all of the interest rolls up, for example, secured bridging loans, secured overdrafts or *mortgage credit cards*. In these cases *MCOB 5.6.140R* to *MCOB 5.6.145R* apply.
- 5.6.59 R Under the section heading ‘Are you comfortable with the risks?’:
- (1) under the sub-heading ‘What if interest rates go up?’ the *illustration* must include the following:
 - (a) if the interest rate is fixed throughout the term of the *regulated mortgage contract*, an explanation that the payments will not vary because the interest rate is fixed;
 - (b) if the interest rate is fixed for part of the term of the *regulated mortgage contract*, an explanation of when or how increases in the interest rate charged on the *regulated mortgage contract* affect the *customer’s* payments;

- (c) if the interest rate cannot go above a certain level or below a certain level, or both, and this applies throughout the term of the *regulated mortgage contract*, an explanation that this is the case;
- (d) if the interest rate cannot go above or below a certain level for part of the term of the *regulated mortgage contract*, an explanation that this is the case and of when or how increases in the interest rate charged on the *regulated mortgage contract* affect the *customer's* payments;
- (e)
 - (i) if (c) or (d) apply, the maximum or minimum interest rate, or both, and the payments at each of these interest rates; and
 - (ii) where a *repayment vehicle* has been included in the *illustration* in accordance with *MCOB 5.6.52R(3)*, the payments quoted in (i) must include the cost of the *repayment vehicle* and state that this is the case;
- (f) if the *regulated mortgage contract* is made up of a number of different parts including different types of interest rate and different rates of interest, an explanation of when or how increases in the interest rate charged on the *regulated mortgage contract* affect the *customer's* payments for each part (or combination of parts);
- (g) except where (2)(a) or (2)(b) apply, the following text:

“The [frequency of payments from *MCOB 5.6.40R*] payments shown in this illustration could be considerably different if interest rates change. For example, for one percentage point increase in [describe the interest rate that applies], your [insert frequency of payments] payment will increase by around £[insert amount by which payment will increase].”; and
- (h) except where (2)(a) or (2)(b) apply, if (f) applies the following additional text after the text in (g), for each part (or combination of parts), where the amounts by which the *customer's* payments would increase are different:

“After the [describe the interest rate that applies, the part (or parts) to which it applies, and date or period for which it applies] then for one percentage point

increase in [describe the interest rate that applies], your [insert frequency of payments] payment will increase by around £[insert amount by which payment will increase].”.

- (2) paragraphs (1)(g) and (1)(h) do not apply where:
 - (a) the interest rate is fixed throughout the term of the *regulated mortgage contract*; and
 - (b) the difference between the interest rate included in the *illustration* in accordance with *MCOB 5.6.42R* and the maximum interest rate that can be charged on the *regulated mortgage contract* is less than one percentage point.

- (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.”

5.6.60 **R** The amount by which the *customer’s* payments would increase in accordance with *MCOB 5.6.59R(1)(g)* and (h) must be calculated as follows:

- (1) the *firm* must use the total amount borrowed, or assume that all payments due on the *regulated mortgage contract* have actually been paid, all additional fees and payments due have been paid, and no underpayments or overpayments have been made;
- (2) where all or part of the *regulated mortgage contract* is a *repayment mortgage*, the calculation must be based on:
 - (a) the total amount borrowed; or
 - (b) the amount of the loan outstanding from the earliest point at which the interest rate charged on the *regulated mortgage contract* can vary (for example, if the *regulated mortgage contract* has an initial fixed interest rate, this will be from the point at which the fixed interest rate ends); and
- (3) the interest rate from which the increase is calculated must be the variable interest rate charged on the *regulated mortgage contract* at the date that the *illustration* is issued (that is, the variable interest rate quoted in Section 4 of the *illustration*); where the variable interest rate changes after a set period or on a set date, it must be based on the initial variable interest rate charged on the *regulated mortgage contract* at the date the *illustration* is issued (for example, if

the initial interest rate is discounted, it must be based on the discounted rate).

- 5.6.61 G Although the effect of a one percentage point increase in interest rates on the *customer's* payments is not completely linear, the purpose of *MCOB 5.6.59R(1)(g)* and (h) is to show the approximate effect of such an increase.
- Risk warning**
- 5.6.62 R Unless *MCOB 5.6.59R(2)(a)* or (b) apply, the following words must be prominently displayed at the end of the sub-section ‘What if interest rates go up?’:
- “Rates may increase by much more than this so make sure you can afford the [insert frequency of payments from *MCOB 5.6.40R*] payment”.
- 5.6.63 R The following words must be prominently displayed at the end of the sub-section ‘What if your income goes down?’:
- “Make sure you can afford your mortgage if your income falls”.
- 5.6.64 G For guidance on prominence see *MCOB 2.2.9G*.
- 5.6.65 R The following text must be included at the end of Section 7 ‘Are you comfortable with the risks?’:
- “The FSA’s guide ‘You can afford your mortgage now, but what if...?’ will help you consider the risks. You can get a free copy from www.fsa.gov.uk/consumer, or by calling 0845 606 1234.”
- Section 8: ‘What fees must you pay?’
- 5.6.66 R Under the section heading ‘What fees must you pay?’ the *illustration* must:
- (1) itemise all the fees that are included in the calculation of the *APR* in accordance with *MCOB 10* (Annual Percentage Rate), excluding charges for any compulsory mortgage payment protection insurance; and
 - (2) include a statement at the end of the section using the following text:

“You may have to pay other taxes or costs in addition to any fees shown here.”
- 5.6.67 G An example of a fee that would normally be included in Section 8 would be a fee to re-inspect a property after completion of works if it is known that this fee will be charged at the time the *illustration* is produced. An example of a fee that would not be included would be a

fee payable by the *customer* to insure their property elsewhere (however this would need to be stated in Section 9 of the *illustration* ‘Insurance’, as required by *MCOB* 5.6.77R(2)). Fees payable upon repayment of the *regulated mortgage contract* at the end of the mortgage term would need to be included. Where fees are payable only on early repayment of the *regulated mortgage contract*, they should not be stated here (however these fees would need to be stated in Section 10 of the *illustration* ‘What happens if you do not want this mortgage any more’, as required by *MCOB* 5.6.88R(2)).

5.6.68 R The fees included in this section in accordance with *MCOB* 5.6.66R must be itemised under the relevant sub-headings as follows:

- (1) the fees that are payable by the *customer* to the *mortgage lender* must be itemised under the sub-heading ‘Fees payable to [name of *mortgage lender*]’;**
- (2) the remaining fees must be itemised under the sub-heading ‘Other fees’; and**
- (3) (a) if there are no fees to be itemised in accordance with (1), the sub-heading must be retained and a statement must be included stating that no fees apply; and**
(b) if there are no fees to be itemised in accordance with (2), then the sub-heading must be retained and only the text in *MCOB* 5.6.66R(2) applies.

5.6.69 R The following information must be provided for each fee included in this section of the *illustration* in accordance with *MCOB* 5.6.66R(1):

- (1) a description of the fee;**
- (2) the amount payable by the *customer* recorded in a column headed ‘Fee amount’ on the right-hand side of this section;**
- (3) for fees included under the sub-heading ‘Other fees’, to whom the fee is payable;**
- (4) when the fee is payable;**
- (5) whether or not the fee is refundable, and if so, the extent to which it is refundable; and**
- (6) which fees (if any) are estimated in accordance with *MCOB* 5.6.35R(2) and based on representative information; and**
- (7) if any fee is payable after the start of the *regulated mortgage contract* and subject to change in the future, for example a fee payable on final repayment of the *regulated mortgage***

contract, the amount of that fee, along with a statement that this is the ‘current fee’.

- 5.6.70 R (1) If a *higher lending charge* is payable by the *customer*, the following text must be used to describe such a charge for the purposes of *MCOB 5.6.69R*:
- “A higher lending charge is payable because you are borrowing [insert the ratio of the mortgage amount (from *MCOB 5.6.6R(2)*) to the property’s price or value (from *MCOB 5.6.6R(3)*)] of the property’s [estimated] [price/value].”
- (2) If the *customer* has asked for any fees to be added to the loan, this should be stated alongside each fee.
- (3) If the *customer* has the option of adding to the loan amount any of the fees included in this section, the following text must be included:
- “If you wish you can add [this/these/the {type of fee}] fee(s) to the mortgage. This would increase the amount you borrow to [insert amount of the mortgage with the fee(s) included] and would increase the payments shown in Section 6. If you want to do this, you should ask for another illustration that shows the effect of this on your [insert frequency of payments from *MCOB 5.6.40R*] payments.”
- (4) Any fees that are estimated based on representative information in accordance with *MCOB 5.6.35R(2)* must include an appropriate explanation of what the fee represents. For example, if this section includes an estimated fee for the legal work that a *customer* might be charged by his conveyancer for carrying out work on behalf of the *mortgage lender*, the *illustration* must explain that the fee is estimated, and that it only covers part of the costs of legal work that the *customer* might need to pay.
- 5.6.71 G ‘Other fees’ will include any fee charged by a *mortgage intermediary*, or another third party, for *advising on* or *arranging* a *regulated mortgage contract* but not commission or *procurator fees* (which are dealt with in Section 13 of the *illustration*).
- 5.6.72 R A *mortgage lender* must provide a *tariff of charges* to the *customer*, if the *customer* so requests.
- Section 9: ‘Insurance’
- 5.6.73 R (1) Under the section heading ‘Insurance’ the *illustration* must include details of:

- (a) insurance which is a *tiered product*; and
- (b) insurance which is required as a condition of the *regulated mortgage contract* which is not a *tiered product*.

(2) A *firm* may also provide details of insurance which it is optional for the *customer* to take out under this section heading.

(3) It must be clear to the *customer* which products he is required to purchase under which circumstances (for example, where both a *tiered product* and a *mortgage intermediary* are involved, whether the policy must be purchased from the *mortgage lender* or the *mortgage intermediary*).

5.6.74

R Under the sub-heading ‘Insurance you must take out through [insert name of *mortgage lender* or where relevant the name of the *mortgage intermediary*, or both]’ the following information must be included if the *regulated mortgage contract* requires the *customer* to take out insurance that is a *tiered product* either through the *mortgage lender* or where relevant the *mortgage intermediary*:

- (1) details of which insurance is a *tiered product*;
- (2) for how long the *customer* is obliged to purchase the insurance;
- (3) an accurate quotation or a reasonable estimate of any payments the *customer* needs to make for the insurance;
- (4) where a quotation is provided for insurance in accordance with (3) on the basis of an estimated sum insured, because the actual required sum insured is unknown, the fact that it is estimated should be stated along with confirmation of the level of cover that has been assumed;
- (5) details of when the *customer’s* payments for such insurance change, for example, if premiums are reviewed annually; and
- (6) where a quotation is not provided in accordance with (3) a statement of when and how a quotation will be provided (for example, separately and as soon as possible).

5.6.75

G *Firms* are reminded that MCOB 5.4.23R requires a *firm* to provide a *customer* with an accurate quotation for any *tiered products*. Where the level of cover the *firm* requires the *customer* to take up is known at the outset, then the quotation should reflect that level of cover.

- 5.6.76 R If the *regulated mortgage contract* does not require the *customer* to take out insurance as a *tied product*, the sub-heading ‘Insurance you must take out through [insert the name of the *mortgage lender*, and where relevant the name of the *mortgage intermediary*]’ must be retained and a statement must be provided under this heading that the *customer* is not obliged to take out any insurance through the *mortgage lender* or, where relevant, the *mortgage intermediary*.
- 5.6.77 R The following information must be included under the sub-heading ‘Insurance you must take out as a condition of this mortgage but that you do not have to take out through [insert the name of the *mortgage lender*, or where relevant the name of the *mortgage intermediary*, or both]’:
- (1) if the *regulated mortgage contract* requires the *customer* to take out an insurance policy (other than that which is a *tied product* which the *customer* is obliged to purchase through the *mortgage lender*, or where relevant the *mortgage intermediary*), a brief statement of the type of insurance the *firm* requires; a quotation for the insurance that the *firm* issuing the *illustration* wishes to promote to the *customer* may be included in the *illustration* (estimated where necessary);
 - (2) if the *mortgage lender* or the *mortgage intermediary* makes a charge in cases where the *customer* does not arrange insurance that is a condition of the *regulated mortgage contract* through the *mortgage lender* or the *mortgage intermediary*, this must be stated, together with the amount of the charge and the frequency with which this charge is payable; and
 - (3) if no insurance policies are required (other than that which is a *tied product*), the sub-heading ‘Insurance you must take out as a condition of this mortgage that you do not have to take out through [insert name(s) of *mortgage lender* and, where relevant the *mortgage intermediary*]’ must be retained in the *illustration* and a statement must be provided under this heading that no such insurance is required.
- 5.6.78 G Under the sub-heading ‘Insurance you must take out as a condition of this mortgage that you do not have to take out through [insert name of *mortgage lender* or where relevant the name of the *mortgage intermediary*, or both]’ the *illustration* should not include any insurance policy that may be taken out by a *mortgage lender* itself to protect its own interests rather than the *customer’s* interests, for example, because of the ratio of the loan amount to the property value.
- 5.6.79 G If the cost of any insurance that the *mortgage lender* might take out to protect its own interests, because of the ratio of the loan amount to the

property value, is passed on to the *customer*, it will be shown elsewhere in the *illustration*, for example, as a *higher lending charge* or in the interest rate charged.

- 5.6.80** **R** A *firm* may include in the *illustration*, under the sub-heading ‘Optional insurance’, quotations (estimated where necessary) for any insurance products (other than the insurance products covered elsewhere in the *illustration* in accordance with *MCOB* 5.6.74R and 5.6.77R) that the *firm* issuing the *illustration* wishes to promote to the *customer*.
- 5.6.81** **R** If no quotations are included in the *illustration* in accordance with *MCOB* 5.6.80R, the sub-heading ‘Optional insurance’ must not be included in the *illustration*.
- 5.6.82** **R** (1) If any quotations for insurance are included in the *illustration* in accordance with *MCOB* 5.6.74R(3), *MCOB* 5.6.77R(1) or *MCOB* 5.6.80R, the *illustration*:
- (a) must include a brief description only of the type of insurance (full details of the insurance cover may however be provided separately); and
 - (b) (i) must include the total price to be paid by the *customer* in a column on the right hand side of the *illustration* under the heading ‘[insert frequency of payments quoted] payments’; and
 - (ii) may refer the *customer* to the individual insurance product disclosure documentation.
- (2) If the *customer* has asked to add any insurance premiums to the amount borrowed in accordance with *MCOB* 5.6.18R(3):
- (a) the insurance premiums must be included in Section 3; and
 - (b) the following text must be used in Section 9:

 “The annual insurance premium will be added to your mortgage account and increase the amount you owe. You can pay this premium in full by [insert details of the period of time that the *customer* will have to pay the premium in full before interest is charged on the insurance premium e.g. ‘by the end of the month in which the *regulated mortgage contract* starts’] at no extra cost, otherwise interest will be charged at [insert details of the applicable interest rate e.g. ‘the same rate as your mortgage’ or

‘the standard variable rate which is currently x%’].”

5.6.83 G The terms on which an insurance premium has been calculated should be presented to the *customer* in the format determined by the relevant regulatory requirements.

Section 10: ‘What happens if you do not want this mortgage any more?’

5.6.84 R Under the heading ‘What happens if you do not want this mortgage any more?’, the *illustration* must include the following information on the *regulated mortgage contract*:

- (1) under the sub-heading ‘Early repayment charges’:
 - (a) an explanation that the *customer* cannot repay the *regulated mortgage contract* early, if this is the case;
 - (b) an explanation of whether *early repayment charges* are payable;
 - (c) an explanation of when *early repayment charges* are payable;
 - (d) an explanation of any other fees that are payable if the *regulated mortgage contract* is repaid early, and the current level of these fees;
 - (e) a basic explanation of the basis on which *early repayment charges* are calculated (for example, as a percentage of the loan or as so many months’ interest), including where appropriate details of any *cashback* or other incentives that must be repaid. The *illustration* may refer to a separate document for full details of all terms and conditions relating to the charges that apply if the *regulated mortgage contract* is repaid early;
 - (f) example cash amounts of any *early repayment charges* indicating the range of charges that apply over the period during which such charges apply calculated in accordance with *MCOB 5.6.88R*, which must be described in the *illustration* as cash examples;
 - (g) the maximum *early repayment charge* that the *customer* could be charged in accordance with *MCOB 12.3* (Early repayment charges), plus the cost of any other fees, which must be shown as cash amounts and described in the *illustration* as ‘the

maximum charge you could pay' [add if applicable, 'plus (a) fee(s) which (is/are) currently £x']; and

(2) under the sub-heading 'What happens if you move house?':

details of whether or not the *regulated mortgage contract* is portable on moving house and a brief explanation of any conditions or restrictions that apply including whether there are any restrictions on changing the terms of the *regulated mortgage contract* during the period in which any *early repayment charges* apply (a reference to another document may be made in order to provide the *customer* with further details of the conditions or restrictions).

- 5.6.85 G The requirements in *MCOB* 5.6.84R(1) may be presented in a tabular format.
- 5.6.86 R Where *MCOB* 5.6.84R(1)(f) would result in more than three cash amounts being shown in the *illustration*, the cash amounts shown in the *illustration* may be restricted to three examples. These examples must be representative of the full range of charges that apply and not be limited to the lowest charges that apply. These three examples are in addition to:
- (1) any statement of the amount of any fees described in *MCOB* 5.6.84R(1)(d); and
- (2) the maximum *early repayment charge* required by *MCOB* 5.6.84R(1)(g).
- 5.6.87 G An example which would comply with *MCOB* 5.6.86R would be if a five year fixed rate mortgage had a charge which reduced linearly by 1% each year from 5% in the first year to 1% in the final year and cash examples were used based on 5% in year 1, 3% in year 3 and 1% in year 5.
- 5.6.88 R (1) In calculating example cash amounts in accordance with *MCOB* 5.6.84R(1)(f), it must be assumed that:
- (a) the *regulated mortgage contract* is repaid in full;
- (b) unless the original amount borrowed is used, that all payments due on the *regulated mortgage contract* are actually paid;
- (c) additional fees and charges such as insurance premiums have been paid; and
- (d) no underpayments or overpayments have been made.
- (2) If:

- (a) *cashbacks* or other incentives need to be repaid; or
- (b) fees need to be paid;

the amounts that would need to be repaid or paid must be included in the example cash amounts.

- (3) Where the calculation of the *early repayment charge* is based on the interest rate charged on the *regulated mortgage contract* or on interest rates generally, the interest rates used for the calculation of the example cash amounts must be those in force at the date that the *illustration* is issued to the *customer*.
- (4) The example cash amounts must reflect the maximum charge in a particular year. Where it is possible to state exact *early repayment charges* (that is, where all such charges are based on the original amount borrowed), the *illustration* must do so.

5.6.89 R Where the cash examples from *MCOB 5.6.88R* included in the *illustration* would vary either if the interest rate charged on the *regulated mortgage contract* changed or with changes in interest rates generally, an appropriate warning that the *early repayment charges* may vary from the cash examples must be included in the *illustration*.

Section 11: ‘What happens if you want to make overpayments?’

5.6.90 R (1) Under the section heading ‘What happens if you want to make overpayments?’, the *illustration* must include details of any restrictions on lump sum and regular overpayments on the *regulated mortgage contract*, together with a statement as to whether or not the amount on which the interest charged is recalculated is reduced immediately on receipt of any lump sum or regular overpayment.

(2) Where such recalculation does not take place immediately (for example, if an annual rest method is used), then this statement must be accompanied by an explanation of when the amount on which the interest charged is recalculated is reduced following a lump sum or regular overpayment.

(3) Where *early repayment charges* apply, this section must not repeat the details provided in Section 10 of the *illustration*, but may refer to Section 10.

5.6.91 G Where the interest recalculation described in *MCOB 5.6.90R* takes place immediately, *firms* may add a statement in this section explaining that the *customer* will get the benefit of the overpayment

back any monies overpaid and a brief statement of any conditions that apply.

- 5.6.98 R Under the sub-heading ‘Incentives’, the *illustration* must include:
- (1) any incentives including *cashbacks*; and
 - (2) if a *cashback* is provided, the amount of the *cashback* and details of when it is paid to the *customer*.
- 5.6.99 R Under the sub-heading ‘Additional borrowing available without further approval’, the *illustration* must provide details of circumstances in which there are any *linked borrowing* facilities that would allow the *customer* to increase the amount of the loan on which the *illustration* is based without any further approval from the *mortgage lender* (for example, if there are additional drawdown facilities).
- 5.6.100 R Under the sub-heading ‘Additional secured borrowing’, the *illustration* must provide details of circumstances in which additional *secured lending* is offered with the *regulated mortgage contract* that would allow the *customer*, subject to certain conditions, to increase the amount of the loan on which the *illustration* is based.
- 5.6.101 R Under the sub-heading ‘Unsecured borrowing’, the *illustration* must provide details of circumstances in which *unsecured lending* is offered with the *regulated mortgage contract* that would allow the *customer* to increase the amount of the loan on which the *illustration* is based.
- 5.6.102 R Under the sub-heading ‘Credit card’, the *illustration* must:
- (1) state if a credit card is offered with the *regulated mortgage contract*; and
 - (2) if a credit card is offered and it is a *mortgage credit card*:
 - (a) unless (b) applies, include the following text:

“This card will not give you a number of the statutory rights associated with traditional credit cards. Your mortgage offer will tell you more about the differences.”; or
 - (b) where the *mortgage lender* provides the *customer* with contractual rights in relation to a *mortgage credit card* equal to or greater than those provided under the Consumer Credit Act 1974, include the following text:

“This card will not give you a number of the statutory rights associated with traditional credit cards. However, [insert name of *mortgage lender*] will ensure that you will be treated no differently from the user of a traditional credit card. Your mortgage offer will tell you more about this.”

- 5.6.103 R** Where any of the additional features under *MCOB 5.6.99R* to *MCOB 5.6.102R* inclusive apply, then the following must also be stated if the amount of additional borrowing that would be available to the *customer* is stated in the *illustration*:
- (1)** the maximum additional amount available;
 - (2)** if the interest rate payable on any additional borrowing is different to the interest rate in Section 4 and Section 6 of the *illustration*, the interest rate and the *APR* charged on the additional borrowing. The *APR* must be calculated in accordance with *MCOB 10* (Annual Percentage Rate), based on the maximum amount of additional borrowing that would be permitted for the *customer* and the term of the loan from *MCOB 5.6.6R(4)*;
 - (3)** the total resulting debt the *customer* could incur (including the original loan amount);
 - (4)** the payments on this total debt based on the frequency of payments in *MCOB 5.6.40R* and the interest rate(s) that would apply on the date the *illustration* is issued;
 - (5)** whether this additional borrowing must be repaid in full if the original loan is repaid in full, along with details of any conditions that apply;
 - (6)** if *early repayment charges* apply to the additional amount borrowed:
 - (a)** that *early repayment charges* are payable;
 - (b)** an explanation of when *early repayment charges* are payable; and
 - (c)** the maximum *early repayment charge* that the *customer* could be charged in accordance with *MCOB 12.3* (Early repayment charges) which must be shown as a cash amount; and
 - (7)** if it is the case, that the maximum amount of borrowing available, or the terms and conditions, may change depending on factors such as ratio of the loan amount to the property value.

- 5.6.104 R Where more than one additional borrowing facility from *MCOB 5.6.99R* to *MCOB 5.6.102R* applies, *MCOB 5.6.103R* (3) and (4) must each be based on the total of all these *linked borrowing* facilities and included under a separate sub-section titled ‘Total additional borrowing’.
- 5.6.105 G The purpose of *MCOB 5.6.104R* is to show the total amount of any additional borrowing facilities that would be available to the *customer* and the cost of utilising these facilities. It must combine the amount available under any *linked borrowing* facilities including additional *secured lending*, credit cards and *unsecured lending*.
- 5.6.106 R (1) Where additional features are included in accordance with *MCOB 5.6.92R* and these are credit facilities that do not meet the definition of a *regulated mortgage contract*, the relevant parts of Section 12 of the *illustration* must include the following text:
- “This additional feature is not regulated by the Financial Services Authority”.
- (2) Where additional features are included in accordance with *MCOB 5.6.92R* and these are credit facilities regulated by the Consumer Credit Act 1974, the relevant parts of Section 12 of the *illustration* must include the following text after the text in (1):
- "but is regulated under the Consumer Credit Act 1974. You will receive a separate credit agreement with any offer document for this additional feature, describing the detailed terms on which this feature is available."
- 5.6.107 R Where all or part of the maximum amount of additional borrowing is secured on the *customer’s* home, a prominent warning must be included that additional borrowing increases the amount of credit secured on the *customer’s* home.
- 5.6.108 G Suitable wording for the warning contained in *MCOB 5.6.107R* would be:
- “This will increase the amount of borrowing secured on your home”.
- 5.6.109 R (1) Under the sub-heading ‘Linked current account’, the *illustration* must include the following information:
- (a) whether a linked current account is a compulsory or optional product (if the current account is a compulsory product this must also be stated in Section 4 of the *illustration* in accordance with *MCOB 5.6.25R(6)*);

- (b) an explanation of the interest rates that apply under different circumstances to the linked current account, if different from the interest rate charged on the *regulated mortgage contract* (for example, if a different interest rate applies if the account is overdrawn); and
 - (c) the *firm* providing the linked current account if it is not the *mortgage lender*.
- (2) If an example to show the effect of the linked current account on the *regulated mortgage contract* is included in the *illustration*, it must be based on the actual or likely amount that the *customer* intends to pay into the linked current account on a regular basis and the actual or likely expenditure profile of the *customer* concerned.
- 5.6.110 R (1) Under the sub-heading ‘Linked savings account’, the *illustration* must include the following information:
- (a) whether a linked savings account is a compulsory or optional product (if the savings account is a compulsory product this must also be stated in Section 4 of the *illustration* in accordance with *MCOB 5.6.25R(6)*);
 - (b) the interest rate paid on the linked savings account if it differs from the interest rate charged on the *regulated mortgage contract*; and
 - (c) the *firm* providing the linked savings account if it is not the *mortgage lender*.
- (2) If an example to show the effect of the linked savings account on the *regulated mortgage contract* is included in the *illustration*, it must be based on the actual or likely level of relevant savings for the *customer* concerned.
- 5.6.111 G If an example is included in the *illustration* in accordance with *MCOB 5.6.109R(2)* or *MCOB 5.6.110R(2)*, it must be based on information obtained from the *customer* and the amounts that are intended to be paid into the current or savings account on a regular basis; the amounts that it is intended are saved; and the actual or likely expenditure profile. The amounts involved and the expenditure profile should not be standard assumptions made by the *firm*, but should be those of the *customer* or the relevant person who would hold the accounts, or both, and be of a conservative nature. These assumptions should be stated in the *illustration*. For example, it should not be assumed that the *customer* will make lump sum payments unless he has indicated that he intends to do so, and in the case of linked current accounts it should not be assumed that the *customer* or person holding the account leaves

monies in the current account at the end of each month unless he actually does so, or intends to do so. In this case, a conservative assumption might be that the *customer* spends all the money paid into his current account evenly over the month.

- 5.6.112 G If a linked current account and a linked savings account are offered as part of the *regulated mortgage contract*, the examples in *MCOB* 5.6.109R(2) and *MCOB* 5.6.110R(2) can be combined into one example.

Section 13: ‘Using a mortgage intermediary’

- 5.6.113 R Where the *illustration* is issued to a *customer* by, or on behalf of, a *mortgage intermediary*, Section 13 ‘Using a mortgage intermediary’ must be included in the *illustration* and must include the following:

(1) unless *MCOB* 5.6.114R applies, a clear statement of the amount payable (either directly or indirectly) by the *mortgage lender* to the *mortgage intermediary*, or to any third parties; and

(2) the name of the *mortgage lender* who will make the payment, the name of the *mortgage intermediary* and the names of any third parties who will be paid.

- 5.6.114 R If the amount payable by the *mortgage lender* to the *mortgage intermediary* and to third parties is £250 or less, the *mortgage intermediary* need only state that the amount of the payment is ‘no more than £250’, unless the *customer* requests the actual amount.

- 5.6.115 R If the *mortgage intermediary* will pass to the *customer* all or part of the amount payable to the *mortgage intermediary* under *MCOB* 5.6.113R(1) or *MCOB* 5.6.114R, that fact may be stated in this section, along with the amount payable to the *customer*.

- 5.6.116 R If the *mortgage lender* will make no payment to the *mortgage intermediary* or any third party, this section may state that the *mortgage intermediary* will receive no payment.

- 5.6.117 R The amount payable in *MCOB* 5.6.113R(1) or *MCOB* 5.6.114R must include:

(1) any *procuration fee*; and

(2) a cash value for any material non-cash inducements that the *mortgage lender* provides to a *mortgage intermediary* or third party, whether payable directly or indirectly.

- 5.6.118 G *MCOB* 2.3.7R requires any material inducements provided to a *mortgage intermediary* or third party connected to the *mortgage intermediary*, by a *mortgage lender*, whether directly or indirectly, to

be quantified in cash terms, which will enable the cash values to be included in the *illustration* in accordance with *MCOB* 5.6.117R.

- 5.6.119 G An example of a statement which would comply with *MCOB* 5.6.113R and *MCOB* 5.6.117R would be:

“[name of *mortgage lender*] will pay [name of *mortgage intermediary*] an amount of £350 in cash and benefits if you take out this mortgage.”

Section 14: ‘Where can you get more information about mortgages?’

- 5.6.120 R This section must be renumbered Section 13 if the *illustration* is not provided by, or on behalf of, a *mortgage intermediary*.

- 5.6.121 R Under the section heading ‘Where can you get more information about mortgages?’, the prescribed text under this heading in *MCOB* 5 Annex 1R must be included.

Contact details

- 5.6.122 R This section must follow the section ‘Where can you get further information about mortgages?’ and must include the name, address and contact point of the *firm* providing the *illustration*.

- 5.6.123 G An example of wording which would comply with *MCOB* 5.6.122R would be:

“If you wish to discuss this mortgage illustration please contact [name of *firm*] at [address] or on [telephone number]”.

Risk warning

- 5.6.124 R The following words must be prominently displayed in the *illustration*, after the contact details:

“Your home may be repossessed if you do not keep up repayments on your mortgage.”

- 5.6.125 G For guidance on prominence see *MCOB* 2.2.9G.

Amortisation table

- 5.6.126 G (1) An amortisation table may be added to the end of the *illustration* after the information required by *MCOB* 5.6.124R if the *mortgage lender* or *mortgage intermediary* wishes. A *firm* may find that this is particularly appropriate to illustrate certain types of *regulated mortgage contract*, for example, a *regulated mortgage contract* with more than one part.
- (2) The purpose of (1) is to permit a *firm* to add an amortisation table in accordance with the European Commission’s

‘Recommendation of 1 March 2001 on pre-contractual information to be given to consumers by lenders offering home loans’ (C2001) 477 final – EN).

Foreign currency mortgages

5.6.127 R If the *customer’s* liability under a *regulated mortgage contract* is in a currency other than sterling, *MCOB 5.6* applies to the *illustration* for that *regulated mortgage contract* with the following amendments:

- (1) all cash amounts must be given in the relevant currency except where otherwise required in (2)(a) and (3);
- (2) the following information must be stated under Section 4 ‘Description of this mortgage’:
 - (a) the amount in sterling on which the *illustration* is based from *MCOB 5.6.6R(2)* based on the exchange rate in (2)(b);
 - (b) the exchange rate used; and
 - (c) when the exchange rate quoted applied;
- (3) the following text must be added at the end of Section 4 ‘Description of this mortgage’:

“This illustration is based on the sterling equivalent of [insert details from (2)(a)] based on [insert details from (2)(b)] as at [insert details from (2)(c)]. Exchange rates can vary significantly. The effect of a 5% decrease in the value of sterling to the [insert name of relevant currency] would increase your total borrowing to [insert amount to which the amount borrowed from *MCOB 5.6.6R(2)* would increase in sterling]. This would increase your [insert frequency of payments from *MCOB 5.6.40R*] payments by the sterling equivalent of £[insert amount in sterling].”

The following information must be added to this text:

- (a) the cash amount to which the amount borrowed would increase in sterling if there was a decline of 5% in the value of sterling when compared to the relevant currency; and
- (b) the amount by which (2)(b) would increase the *customer’s* payments based on the frequency of payments from *MCOB 5.6.40R*, shown as a sterling equivalent cash amount.

Risk warning

- 5.6.128 R The text at *MCOB 5.6.124R* 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.”

Shared appreciation mortgages

- 5.6.129 R If the *regulated mortgage contract* is a *shared appreciation mortgage*, *MCOB 5.6* applies to the *illustration* with the following amendments:
- (1) Section 4 ‘Description of this mortgage’ must contain the following additional information and text in this order after the details required by *MCOB 5.6.25R* to *MCOB 5.6.29R*:
 - (a) “This mortgage involves [name of *mortgage lender*] taking a percentage share in any increase in the value of your property [insert details of all occasions when the share will be payable to the *mortgage lender*, for example, ‘after x years, or when this mortgage comes to an end or is terminated early’]. The amount [name of *mortgage lender*] will take depends on any increase in the value of your property.” [Include if relevant: “If your property falls in value between now and the end of this mortgage you will be required to pay [add details of what the *customer* will need to pay the *mortgage lender* if the property falls in value.]”];
 - (b)
 - (i) a basic explanation of how the amount of the share payable to the *mortgage lender* is calculated including the proportions of any given increase in the value of the property and whether this is dependent on the level of growth (for example, that the share payable to the *mortgage lender* is all of the increase in value of the property for the first 5% increase in value, plus half of the additional increase in the value of the property above this);
 - (ii) a reference to a separate document for full details of the terms and conditions relating to the amount of the share payable followed by:

“The example below shows how this works.

EXAMPLE: Based on the current [estimated] value of your property of [insert details from *MCOB 5.6.6R(3)*], the example(s) below show(s) what your property value would be and what share of that value [name of *mortgage lender*] would take after [insert term of the loan in accordance with *MCOB 5.6.6R(4)* or the term after which the equity share becomes payable if less] if the value of your property increased. [Include if relevant: “and what would happen if your property decreased in value.”] “Please note that you should add this payment to the amount of any early repayment charges that may be payable – see Section 10”;

- (c) except where (g) applies, example cash amounts for the value of the property and the corresponding amount of the equity share payable assuming an average annual increase, in the value of the property secured by the *regulated mortgage contract* of 1%, 5% and 10% over the term from (i);
- (d) if the *customer* would be required to pay the *mortgage lender* an amount because the value of the property on which the *regulated mortgage contract* would be secured had decreased from its value at the start of the term of the *regulated mortgage contract*, include example cash amounts for the value of the property and the corresponding amount payable assuming an average annual decrease, in the value of the property secured by the *regulated mortgage contract* of 1%, 5% and 10% over the term from (i);
- (e) if the amount of the equity share payable cannot go above or below a certain level, an explanation that this is the case along with a cash example described as ‘the maximum amount you could pay’;
- (f) include this text after the cash examples in (c):

“This is not an indication of how the actual value of your property may change.”;
- (g) where (c) or (d) apply and the maximum percentage equity share payable is less than the example percentages in (c) or (d), only cash examples for those percentages required by (c) or (d) which are below this maximum need be quoted, along with the maximum in accordance with (e);

- (h) if there are no restrictions on the amount of the equity share payable, the following text should follow the text in (f):

“The amount you will need to pay could be much higher than this.”; and

- (i) for the purposes of the examples required by (c) or (d), the term used must be stated and must be the term of the *regulated mortgage contract* in accordance with *MCOB 5.6.6R(4)* or the term after which the equity share becomes payable, if less;

- (2) Section 5 ‘Overall cost of this mortgage’ of the *illustration* must contain the following text at the end of the section:

“The APR and the total amount you must pay do not take account of the share that [insert name of *mortgage lender*] takes in any increase in the value of your property as described in Section 3. So you should not use these measures to compare this mortgage with other mortgages that do not involve [insert name of *mortgage lender*] taking a share in any increase in the value of your property.”; and

- (3) Section 10 ‘What happens if you do not want this mortgage any more?’ must contain the following text at the end of the first sub-heading ‘Early repayment charges’:

“Remember to add the cost of paying any share in the value of the property to [insert name of *mortgage lender*] – see Section 4.”

5.6.130 G The requirements in *MCOB 5.6.129R(1)(c)* and (d) may be presented in a tabular format.

Risk warning

5.6.131 R The requirements at *MCOB 5.6.129R(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 property either as a lump sum or through extra loan payments. Think carefully about whether you can afford this.”

Deferred interest rate mortgages

5.6.132 R If the interest rate charged on the *regulated mortgage contract* is deferred, *MCOB 5.6* applies with the following additions:

- (1) A section headed: ‘Effect of deferring interest on the amount you owe’ must be included in the *illustration* after Section 6.
- (2) This section must be numbered 6a so that the numbering follows on consecutively from the preceding section unless *MCOB 5.6.55R* applies in which case it should be numbered 6b.
- (3) Under the section heading the following text must be included:

“This table shows the effect of the deferred interest being added to the amount you owe”; and

if the interest rate is variable:

“The amounts shown in this table could be considerably different if the interest rate changes.”
- (4) Under the text in (3), a table must be included showing each year or part year that the interest rate charged on the *regulated mortgage contract* is deferred, in the format set out in *MCOB 5 Ann 1R* and containing the following information in the columns under the following headings:
 - (a) ‘Year’: This must list the years as 1, 2, 3 and so on for each year or part year that the interest charged on the *regulated mortgage contract* is deferred. Where the interest rate charged on the *regulated mortgage contract* changes at a particular date rather than annually, the table may be adapted to accommodate this (for example, by including details of more than one interest rate each year).
 - (b) ‘Interest deferred’: This must show the percentage of interest deferred based on the rates charged on the *regulated mortgage contract* at the date the *illustration* is issued.
 - (c) ‘Amount of deferred interest added to the mortgage’: This must show the cumulative amount that is added to the loan as a cash amount as a result of deferring the payment of interest.
 - (d) ‘Remaining debt before deferred interest is added’: This must show the amount of loan outstanding on the *regulated mortgage contract* before any deferred interest is added.

- (e) ‘Remaining debt with deferred interest added’: This must show the amounts from (4)(c) and (4)(d) added together.

Alternative requirements for loans without a term or a regular repayment plan

Section 6: ‘What you will need to pay each [insert frequency of payments from *MCOB 5.6.40R*]’

- 5.6.133 R** *MCOB 5.6.134R to MCOB 5.6.138G* apply only to loans without a term or regular payment plan where some or all of the interest rolls up, for example secured bridging loans, secured overdrafts or *mortgage credit cards*.
- 5.6.134 R** The heading for Section 6 of the *illustration* and the heading of the column on the right-hand side of this section must state the frequency with which payments must be made by the *customer*. (For example, if payments were to be made on a monthly basis, the heading for this section would be ‘What you will need to pay each month’ and the column would be headed ‘Monthly payments’). Where no regular payments are required on the *regulated mortgage contract*, for example where all interest is rolled-up on a secured bridging loan, then this section must be retained and the frequency of payments assumed must be ‘monthly’.
- 5.6.135 R** All the payments in Section 6 of the *illustration* must be calculated based on the frequency used for the purposes of the headings in *MCOB 5.6.40R* and must be shown in the column on the right-hand side of this section. If no payments are required, for example on a secured bridging loan or secured overdraft, then this column should be marked on the *illustration* as nil.
- 5.6.136 R** Section 6 of the *illustration* must contain the following information:
- (1)** the loan amount on which the *illustration* is based. Where fees are being added to the loan then this figure should include all fees, charges and insurance premiums that have been added to the loan in accordance with *MCOB 5.6.18R(2)* and *MCOB 5.6.18R(3)*, and the following text must follow the loan amount:

“and includes the fees [and insurance premiums] that are shown in Section 8 [and Section 9] as being added to your mortgage.”;
 - (2)** the assumed start date that has been used in the *illustration* must be stated using the following text:

“This illustration assumes that the mortgage will start on [insert assumed start date].”;

- (3) where no payments are required (or no payments are allowed), for example a secured bridging loan or secured overdraft, then section 6 of the *illustration* should state if no payments are required or no payments can be made; or
- (4) where a minimum payment is required, for example on a *mortgage credit card*:
 - (a) a statement that a minimum payment will be required;
 - (b) an explanation of the basis on which this has been calculated, for example a percentage of the loan amount;
 - (c) if this monthly payment is insufficient on its own to repay the *regulated mortgage contract* over the term specified, the following text:

“This payment will not be sufficient to repay the mortgage over the term specified”; and
 - (d) the amount that the *customer* must pay, recorded in the right-hand column of this section.

5.6.137 G An example of the statement required by *MCOB 5.6.136R(3)* would be:

“You [do not need to/cannot] make regular payments on this mortgage.”

5.6.138 G An example of *MCOB 5.6.136R(4)* would be:

“You need to make minimum payments as follows:

3% of the amount outstanding £x.xx

This payment will not be sufficient to repay the mortgage over the term specified.”

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

5.6.139 R *MCOB 5.6.140R to MCOB 5.6.145R* apply only to loans without a term or regular payment plan where some or all of the interest rolls up, for example secured bridging loans, secured overdrafts or *mortgage credit cards*.

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

- (1) under the sub-heading ‘What if interest rates go up?’ the *illustration* must include the following:

- (a) if the interest rate is fixed throughout the term of the *regulated mortgage contract*, an explanation that the interest rate will not vary because the interest rate is fixed;
- (b) if the interest rate is fixed for part of the term of the *regulated mortgage contract*, an explanation of when or how increases in the interest rate charged on the *regulated mortgage contract* affect the amount the *customer* must pay back;
- (c) if the interest rate cannot go above or below a certain level, or both, throughout the term of the *regulated mortgage contract*, an explanation that this is the case;
- (d) if the interest rate cannot go above or below a certain level for part of the term of the *regulated mortgage contract*, an explanation that this is the case and of when or how increases in the interest rate charged on the *regulated mortgage contract* affect the amount the *customer* must pay back;
- (e) except where (2)(a) or (2)(b) apply, Section 7 of the *illustration* must include the following text:

“The total amount you must pay back shown in this illustration could be considerably different if interest rates change. For example, for one percentage point increase in [describe the interest rate that applies], the total amount you must pay back will increase by around £[insert amount by which the *total amount payable* will increase].”.

(2) paragraph (1)(e) does not apply:

- (a) where the interest rate is fixed throughout the term of the *regulated mortgage contract*; and
- (b) where the difference between the interest rate included in the *illustration* in accordance with *MCOB 5.6.25R(2)* and the maximum interest rate that can be charged on the *regulated mortgage contract* is less than one percentage point.

(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.”

- 5.6.141 R The amount by which the *total amount payable* would increase in accordance with *MCOB 5.6.140R(1)(e)* must be calculated as follows:
- (1) unless the total amount borrowed is used, it must be assumed that all payments due on the *regulated mortgage contract* have actually been paid, all additional fees and payments due have been paid, and no under or overpayments have been made;
 - (2) unless the total amount borrowed is used, the calculation must be based on the amount of the loan outstanding from the earliest point at which the interest rate charged on the *regulated mortgage contract* can vary; for example, if the *regulated mortgage contract* has an initial fixed interest rate, this will be from the point at which the fixed interest rate ends;
 - (3) the interest rate from which the increase is calculated must be the variable interest rate charged on the *regulated mortgage contract* at the date that the *illustration* is issued (that is, the variable interest rate quoted in Section 4 of the *illustration*); where the variable interest rate changes after a set period or on a set date, it must be based on the initial variable interest rate charged on the *regulated mortgage contract* at the date the *illustration* is issued. (For example, if the initial interest rate is discounted, it must be based on the discounted rate.)

Risk warning

- 5.6.142 R Unless *MCOB 5.6.140(2)(a)* or (b) applies, the following words must be prominently displayed at the end of the sub-section ‘What if interest rates go up?’:

“Rates may increase by much more than this so make sure you can afford this loan.”

- 5.6.143 R The following words must be prominently displayed at the end of the sub-section ‘What if your income goes down?’:

“Make sure you can afford your mortgage if your income falls”.

- 5.6.144 G For guidance on prominence see *MCOB 2.2.9G*.

- 5.6.145 R The following text must be included at the end of Section 7 ‘Are you comfortable with the risks?’:

“The FSA’s guide ‘You can afford your mortgage now, but what if...?’ will help you consider the risks. You can get a free copy from www.fsa.gov.uk/consumer, or by calling 0845 606 1234.”

- 5.7 Business loans**
- 5.7.1 R** Where the *regulated mortgage contract* is for a business purpose, a *firm* may choose to provide a *business illustration* (in compliance with *MCOB 5.7.2R*) instead of complying with *MCOB 5.6*.
- 5.7.2 R** A *business illustration* provided to a *customer* must:
- (1) use the headings and prescribed text in *MCOB 5 Ann 1R* (except as provided in *MCOB 5.7*) but need not follow the format;
 - (2) include the content required by *MCOB 5.6.3R* to *5.6.130R* (except *MCOB 5.6.5R*, *MCOB 5.6.101R*, *MCOB 5.6.109R* – *MCOB 5.6.112G* and *MCOB 5.6.121R*);
 - (3) use the key facts logo followed by the text ‘about this [term used by the *firm* to describe the borrowing, for example ‘mortgage’]’;
 - (4) use font sizes and typefaces consistently throughout the *business illustration* which are sufficiently legible so that the *business illustration* can be easily read by a typical *customer*;
 - (5) ensure that the information is clearly laid out (for example, through the use of bullet points or similar devices to separate information);
 - (6) describe any *early repayment charge* as an ‘early repayment charge’ and not use any other expression to describe such charges;
 - (7) describe any *higher lending charge* as a ‘higher lending charge’ and not use any other expression to describe such charges; and
 - (8) include the risk warning described in *MCOB 5.6.124R*, or an equally clear and effective variation of this reflecting the nature of the *regulated mortgage contract*.
- 5.7.3 G**
- (1) *MCOB 5.7.2R(1)* means that *firms* do not have to follow the ordering of sections set down in *MCOB 5.6*, although they may choose to do so.
 - (2) In accordance with *MCOB 5.7.2R(8)* an example of an appropriate variation to the risk warning would be:

“Your home may be repossessed if you are unable to fulfil the terms of this secured overdraft”.

- (3) A *firm* may also choose to include other information beyond that required by *MCOB 5.6*. However, when adding additional material a *firm* should have regard to:
 - (a) the intended use of the *business illustration* as an aid to comparison by *customers*;
 - (b) the requirement in *MCOB 2.2.6R* that any communication should be clear, fair and no misleading.
- (4) The *business illustration* provided in accordance with *MCOB 5.7.2R* should be based upon the total borrowing that the *firm* is willing to provide under the *regulated mortgage contract*. This means that there is no requirement for a *firm* to provide a further *business illustration* (or *business offer document*) where a *customer* redraws against payments made under the *regulated mortgage contract*, providing this redrawing does not exceed the borrowing described in the original *business offer document*.
- (5) *MCOB 5.6.6R(4)* requires that where the term of the *regulated mortgage contract* is open-ended, the *business illustration* must be based on an assumed term of 12 months and that this assumption must be stated. This does not mean that a *firm* is limited in the actual term of the *regulated mortgage contract*. A *firm* is able to include in the *business illustration* an explanation that while a 12 month term has been assumed for the purpose of the *business illustration*, the *regulated mortgage contract* itself will be open-ended.

- 5.7.4 R Any *business illustration* provided by a *firm* must be limited to facilities provided under a *regulated mortgage contract*.
- 5.7.5 R *MCOB 5.6.31R(2)*, *MCOB 5.6.52R(1)* and *MCOB 5.6.52R(4)* prescribe text that should be used to remind a *customer* with an *interest-only mortgage* that there is a need to separately arrange for the repayment of capital. The options for repayment of capital may be different where the *regulated mortgage contract* is for a business purpose, and a *firm* must vary the prescribed wording in the *business illustration* to reflect this. One approach may be for the *firm* to revise the wording to reflect how the *customer* has said he will repay the capital.
- 5.7.6 R (1) When providing a *business illustration* in accordance with *MCOB 5.7.2R* a *firm* should describe facilities provided under the *regulated mortgage contract* that are not a loan within section 12 (Additional features) of the *business illustration*.
- (2) In complying with (1), a *firm* should follow the requirements in *MCOB 5.6.92R – MCOB 5.6.108G* where

these are relevant. Where the facility is of a type not considered in *MCOB 5.6.92R – MCOB 5.6.108G* the *firm* should provide in section 12:

- (a) a brief description of the facility involved;
- (b) the term of the facility if different from the term described elsewhere in the *business illustration*; and
- (c) a summary of any charges, including any *early repayment charges*, which apply to the operation of the facility.

(3) **Full information on any facility described in section 12 must be provided in supplementary materials that accompany the *business illustration*.**

5.7.7

G

- (1) In accordance with *MCOB 5.7.6R(1)*, where the *regulated mortgage contract* includes a loan, the facilities described in section 12 of the *business illustration* should include the existence of, and a simple explanation of, any all monies charge, any contingent liabilities such as guarantees and so on.
- (2) Where the *regulated mortgage contract* includes more than one loan facility (such as a secured loan and a separate secured overdraft facility) the *business illustration* should be based upon the primary facility and describe any other loan within section 12.

The illustration: table of contents, prescribed text and prescribed section headings and subheadings.

1. This annex belongs to *MCOB 5.6.2R*.
2. The underlined text indicates instructions that must not be included in the *illustrations* provided to *customers*.

keyfacts about this mortgage

Personalised illustration for: insert *customer's* name – see *MCOB 5.6.15R(1)*

Date Produced: insert date – see *MCOB 5.6.15R(2)*

Insert details of how long the *illustration* is valid for, and if appropriate when the mortgage needs to commence by – see *MCOB 5.6.15R(3)*

This is not a legally binding mortgage offer and it does not oblige [name of *mortgage lender*] to provide you with the mortgage described in this illustration.

1. About this illustration

- We are required by the Financial Services Authority (FSA) - 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.
- Ensure that you obtain other illustrations if you want to compare this mortgage with mortgages from other lenders.

2. Which service are we providing you with?

	We recommend , having assessed your needs, 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.

3. What you have told us

See MCOB 5.6.18R to MCOB 5.6.24G

4. Description of this mortgage

See MCOB 5.6.25R to MCOB 5.6.30G

For foreign currency mortgages see also MCOB 5.6.127R to MCOB 5.6.128R

For shared appreciation mortgages see also MCOB 5.6.129R to MCOB 5.6.131R

5. Overall cost of this mortgage

See MCOB 5.6.31R to MCOB 5.6.38R

See MCOB 5.6.34R to MCOB 5.6.36G

The total amount you must pay back, including the amount borrowed is

£[insert details]

This means you pay back

£[insert details] for every £1 borrowed

The overall cost for comparison is

[insert details]% APR

See MCOB 5.6.37R

For shared appreciation mortgages see MCOB 5.6.129R(2)

6. What you will need to pay each [insert frequency of payments from MCOB 5.6.40R e.g. monthly]

[insert frequency of payments from MCOB 5.6.40R e.g. monthly] payments

See MCOB 5.6.41R to MCOB 5.6.51R

Insert amounts(s)

For multi-part mortgages see MCOB 5.6.54R

For mortgages without a term or a regular payment plan (e.g. secured bridging loans or mortgage credit cards) see MCOB 5.6.134R to MCOB 5.6.138G

<p><u>This box is required only where all or part of the mortgage is an interest-only mortgage. It must be deleted for repayment mortgages.</u></p> <p>Cost of repaying the capital</p> <p>See <u>MCOB 5.6.52R to MCOB 5.6.53G</u></p>	<p><u>Insert amounts(s)</u></p>
<p><u>This section is required only for multi-part mortgages where there is a future change in the interest rate(s) charged. It must be numbered as a subset (e.g. 6a) to follow the preceding section.</u></p> <p>6a. What you will need to pay in future</p>	<p><u>[insert frequency of payments from MCOB 5.6.40R e.g. monthly] payments</u></p>
<p>See <u>MCOB 5.6.55R to MCOB 5.6.57G</u></p>	<p><u>Insert amounts(s)</u></p>

<p><u>This section is required only for deferred interest rate mortgages. It must be numbered as a subset (e.g. 6b) to follow the preceding section.</u></p> <p>[...]. Effect of deferring interest on the amount you owe</p>				
<p>This table shows the effect of the deferred interest being added to the amount you owe. <u>Where the interest rate is variable:</u> The amounts shown in the table could be considerably different if the interest rate changes.</p> <p>See <u>MCOB 5.6.132R</u></p>				
Year	Interest deferred	Amount of deferred interest that is added to the mortgage	Remaining debt before deferred interest is added	Remaining debt with deferred interest added

<p>7. Are you comfortable with the risks?</p>
<p>See <u>MCOB 5.6.59R to MCOB 5.6.65R</u></p> <p><u>For mortgages without a term or a regular payment plan (e.g. secured bridging loans or mortgage credit cards) see MCOB 5.6.140R to MCOB 5.6.145R</u></p>

8. What fees must you pay?	Fee amount
Fees payable to [insert name of <i>mortgage lender</i>] See <i>MCOB 5.6.66 to MCOB 5.6.71G</i>	<u>Insert amount of each fee</u>
Other Fees See <i>MCOB 5.6.66 to MCOB 5.6.71G</i>	<u>Insert amount of each fee</u>

9. Insurance	<u>insert frequency of payments for premium quoted payments</u>
Insurance you must take out through <u>[insert name of <i>mortgage lender or mortgage intermediary</i>]</u> See <i>MCOB 5.6.73R to MCOB 5.6.76G</i>	<u>Insert amount(s) if appropriate</u>
Insurance you must take out as a condition of this mortgage but that you do not have to take out through <u>[insert name of <i>mortgage lender or mortgage intermediary</i>]</u> See <i>MCOB 5.6.77R to MCOB 5.6.83G</i>	<u>Insert amount(s) if appropriate</u>
<u>This box is required only where quotations for optional insurance are provided in the <i>illustration</i></u> Optional Insurance See <i>MCOB 5.6.80R to MCOB 5.6.83G</i>	<u>Insert amount(s)</u>

10. What happens if you do not want this mortgage any more?
Early repayment charges See <i>MCOB 5.6.84R to MCOB 5.6.89R</i> What happens if you move house? See <i>MCOB 5.6.84R(2)</i>

11. What happens if you want to make overpayments?
See <i>MCOB 5.6.90R to MCOB 5.6.91G</i>

12. Additional features

See MCOB 5.6.92R to MCOB 5.6.112G

13. Using a mortgage intermediary

[This section is required only when the *illustration* is provided to a *customer* by, or on behalf of, a *mortgage intermediary*. If the *illustration* is provided by a *mortgage lender*, this section must be removed and Section 14 must be renumbered Section 13]

See MCOB 5.6.113R to MCOB 5.6.1190G

[...]. Where can you get more information about mortgages?

The FSA publishes useful guides on choosing a mortgage. These are available free through its website: www.fsa.gov.uk/consumer, or by calling 0845 606 1234. The website also provides Comparative Tables to help you shop around.

Contact Details

See MCOB 5.6.122R to MCOB 5.6.123G

Your home may be repossessed if you do not keep up repayments on your mortgage – see MCOB 5.6.124R to MCOB 5.6.125G

For *foreign currency mortgages* add the following risk warning (see *MCOB 5.6.128R*):

Changes in the exchange rate may increase the sterling equivalent of your debt

6 DISCLOSURE AT THE OFFER STAGE

6.1 Application

Who?

6.1.1 R 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 Table

This table belongs to *MCOB 6.1.1R*

(1) Category of firm	(2) Applicable section
<i>mortgage lender</i>	whole chapter

What?

6.1.3 R This chapter applies with respect to an offer made by a *firm* to a *customer* with a view to the *firm*:

- (1) *entering into a regulated mortgage contract; or*
- (2) *varying the terms of a regulated mortgage contract entered into by the customer 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 regulated mortgage contract from one type of interest rate to another;*

(whether or not the customer agrees to enter into the regulated mortgage contract or variation).

6.1.4 R In relation to a *regulated lifetime mortgage contract*, this chapter, *MCOB 6*, is replaced by *MCOB 9* (Lifetime mortgages - product disclosure).

6.1.5 R In *MCOB 6*, a reference to an offer to enter into a *regulated mortgage contract* is to be read as including a reference to an offer to vary an existing *regulated mortgage contract* in a manner specified in *MCOB 6.1.3R* if the context so requires.

6.1.6 G *Firms* may diverge from the requirements in *MCOB 5.6* (Content of illustrations) where necessary to reflect the fact that they are providing an *illustration* for a variation as part of an *offer document*.

6.2 Purpose

6.2.1 G (1) *MCOB 6* amplifies *Principle 7*, which requires a *firm* to pay due regard to the information needs of its *customers* and to treat them fairly. The purpose of *MCOB 6* is to ensure that a *customer* receives a clear *offer document* to enable him to check the features and price of the *regulated mortgage contract* before he enters into it. The *offer document* should include an updated and suitably adapted *illustration* so that the *customer* can compare it with the *illustration* he received before he applied for the *regulated mortgage contract*.

(2) To ensure that the *customer* has a record of the information required by *MCOB 6*, *MCOB 6.3.2R* requires the information to be provided to the *customer* in a *durable medium*.

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.

6.3.2 R **Any communication required by *MCOB 6* to be provided to a customer by a firm must be in a durable medium.**

6.4 Content of the offer document

6.4.1 R (1) **If a firm offers to enter into a regulated mortgage contract with a customer, it must provide the customer with an offer document containing an illustration.**

(2) **The firm's offer in the offer document must be on the basis of the information set out in the illustration provided in accordance with (1).**

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 *FSA* expects the *offer document* to be an accurate reflection of the actual costs of the *regulated mortgage contract*.

Records

- 6.4.3 R (1) A *firm* must make an adequate record of each *offer document* which it issues to a *customer* in accordance with *MCOB 6*.
- (2) The record required by (1) must be retained for a year from the date that the *offer document* is issued to the *customer*.
- (3) If, in accordance with *MCOB 6.5* (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).

Modifications to the illustration

- 6.4.4 R The *illustration* provided as part of the *offer document* in accordance with *MCOB 6.4.1R(1)* must meet the requirements of *MCOB 5.6* (Content of illustrations) with the following modifications:
- (1) the *illustration* must be suitably adapted and revised to reflect the fact that the *firm* is making an offer to a *customer* and updated to reflect changes to, for example, the interest rate, charges, the exchange rate or the APR required by *MCOB 10* (Annual Percentage Rate), at the date the *illustration* is issued;
- (2) *MCOB 5.6.2R(2)(a)* does not apply;
- (3) *MCOB 5.6.15R* (Information to be included at the head of the illustration) does not apply;
- (4) *MCOB 5.6.16R* (Section 1: ‘About this illustration’) is replaced by the following: “Section 1: ‘About this offer document’:

Under the section heading ‘About this offer document’, the following text must be included:

- (a) ‘You are not bound by the terms of this offer document until [insert relevant circumstances, including the names of any documents that must be signed. For example “you have signed the legal charge and the funds are released for your mortgage”].

We are required by the Financial Services Authority (FSA) – the independent watchdog that regulates financial services – to provide you with this offer document.’; and

(b) (unless *MCOB* 6.6.1R applies)

“You should compare this offer document with the key facts illustration given to you before you applied for this mortgage, to see how the details may have changed.”;

(5) Unless (b) applies, *MCOB* 5.6.17R (Section 2: ‘Which service are we providing you with?’) is replaced with the following:

“Section 2: ‘Which service did we provide you with?’

(a) Under the section heading ‘Which service did we provide you with?’ the following text should be presented as two options each with a ‘check box’, one of which must be marked prominently to indicate the level of service provided to the *customer*:

‘We have recommended, having assessed your needs, that you take out this mortgage.

We have not recommended a particular mortgage for you. You must make your own choice whether to accept this mortgage offer.’;

(b) If the service described in *MCOB* 5.6.17R (Section 2: ‘Which service are we providing you with?’) was provided by another *firm*, *MCOB* 5.6.17R is replaced by the following:

“Section 2: ‘Which service were you provided with?’

Under the section heading ‘Which service were you provided with?’ the following text should be presented as two options each with a ‘check box’ one of which must be marked prominently to indicate the level of service provided to the *customer*:

‘[name of firm] recommended that you take out this mortgage.

[name of firm] did not recommend a particular mortgage for you. You must make your own choice whether to accept this mortgage offer.”;

(6) *MCOB 5.6.29R(2)* does not apply;

(7) *MCOB 5.6.52R* to *MCOB 5.6.53G* is replaced by the following:

Where all or part of the *regulated mortgage contract* is an *interest-only mortgage*, the *illustration* in the *offer document* must:

(a) clearly state that the payments on the *regulated mortgage contract* cover only interest, and not the capital borrowed;

(b) state the *repayment vehicle* the *customer* intends to use where the *firm* knows details of the specific *repayment vehicle* from the application by the *customer*; if the *firm* does not know how the *customer* intends to repay the capital borrowed, the *firm* must clearly state that the *repayment vehicle* is unknown, and must provide the *customer* with a clear reminder of the need to put suitable arrangements in place; and

(c) include a statement reminding the *customer* to check regularly the performance of any *investment* used as a *repayment vehicle*, to see whether it is likely to be adequate to repay the capital at the end of the term of the *regulated mortgage contract*;

(8) the fees recorded in the *illustration* that is part of the *offer document* in accordance with *MCOB 5.6.66R(1)* must include any fees that have been paid by the *customer*;

(9) *MCOB 5.6.69R(5)* is replaced by the following:

‘(where the fee is payable or has been paid to the *mortgage lender*), whether or not the fee is refundable, and if so, the extent to which it is refundable;’

(10) details of insurance which the *customer* has chosen to take out through the *firm*, whether or not this insurance was included in the *illustration* provided in accordance with *MCOB 5* (Pre-application disclosure), must be

included in Section 9 of the *illustration* that is part of the *offer document*;

- (11) where additional features are included in accordance with *MCOB 5.6.92R* and these are credit facilities regulated by the Consumer Credit Act 1974, the relevant parts of Section 12 of the *illustration* that is part of the *offer document* must include the following text:

"This credit facility is regulated under the Consumer Credit Act 1974. Please refer to the separate credit agreement which describes the facility and the terms on which the credit is available";

- (12) The text required by *MCOB 5.6.102R(2)(a)* or (b) should be adapted to include, or tell the *customer* where they can find, the information required by *MCOB 6.5.4R*; and

- (13) *MCOB 5.6.113R* applies to the *illustration* that is part of the *offer document* if the *illustration* given out in accordance with *MCOB 5* (Pre-application disclosure) was issued by, or on behalf of, a *mortgage intermediary*.

- 6.4.5 G (1) One consequence of *MCOB 6.4.4R(5)(b)* is that the *mortgage lender* will need to know, for each individual transaction *arranged* by a *mortgage intermediary*, whether or not the *customer* has received *advice* from that *mortgage intermediary*.
- (2) When complying with *MCOB 6.4.4R(5)(b)*, *mortgage lenders* may wish to include a statement after the level of service in Section 2 confirming that the level of service described was given by another *firm*, and explaining that they, as the *mortgage lender*, are not responsible for the level of service given, and that the *customer* should contact the other *firm* if they have any queries about the level of service provided. For example: "If you have any queries about this service, you should contact [Name of firm]. [Name of lender] is not responsible for the advice or information you received."

6.4.6 R In adapting and revising the *illustration* that is part of the *offer document* in accordance with *MCOB 6.4.4R(1)* a *firm* must:

- (1) avoid amending the format of the information required by *MCOB 5.6* (Content of illustrations) where possible, since this could result in the *illustration* in the *offer*

document being difficult to compare with the *illustration* originally provided to the *customer* in accordance with *MCOB 5.5.1R*;

- (2) use, where possible, the same headings, ordering of information, and language that appeared in the *illustration* provided in accordance with *MCOB 5.6 (Content of illustrations)*; and
- (3) only change section headings where necessary (for example ‘What you have told us’ could be renamed ‘Your mortgage requirements’).

- 6.4.7 R In adapting and revising the *illustration* in accordance with *MCOB 6.4.4R(1)*, a *firm* may:
- (1) add extra information at the beginning and end of the *illustration*, such as conditions which are not covered by the *illustration*;
 - (2) include greater detail within each of the specified sections than that included in an *illustration* provided in accordance with *MCOB 5 (Pre-application disclosure)*; and
 - (3) leave blank, except for the text ‘not applicable’, sections that are irrelevant, such as:
 - (a) the section on insurance (see *MCOB 5.6.73R* to *MCOB 5.6.83G*), where the *customer* is not buying insurance from the *firm* and the *firm* does not require insurance to be in place; and
 - (b) the section and sub-sections on additional features (see *MCOB 5.6.92R* to *MCOB 5.6.112G*) if there are no additional features available.

6.4.8 G Examples of the additional information that should be included in the *offer document* in accordance with *MCOB 6.4.7R(1)* or *MCOB 6.4.7R(2)* is information about any retentions or reinspections that will be required by the *firm*.

6.4.9 R A *firm* must ensure that the *illustration* forms the main, and an integral, part of the *offer document*.

6.4.10 G *MCOB 6.4.9R* prevents a *firm* from preparing a separate *illustration* and simply adding it to the existing material provided to the *customer* at the offer stage.

Other information contained in the offer

- 6.4.11 R A *firm* must ensure that the *offer document* contains a prominent statement:
- (1) of the period for which the offer is valid;
 - (2) explaining, where the *regulated mortgage contract* contains features, such as additional unsecured borrowing facilities, which could result in the *customer* borrowing more money, that where such features are used, the amount of the *customer's* debt will increase;
 - (3) explaining when any interest rate change on the *regulated mortgage contract* takes effect. This statement must be used, for example, to explain cases where an annual review system is used;
 - (4) explaining the consequences that might arise from the *customer* not entering into the *regulated mortgage contract*, including any fees that the *customer* has paid which will not be reimbursed;
 - (5) explaining that once the *regulated mortgage contract* is concluded there will be no right of withdrawal; and
 - (6) explaining that although no right of withdrawal exists the *customer* will have a right to repay the *regulated mortgage contract* in accordance with the terms of the *regulated mortgage contract*.
- 6.4.12 G In complying with *MCOB* 6.4.11R(6) the *firm* is not required to repeat in this section of the *offer document* the cash amounts of the *early repayment charges* set out in the *illustration* provided as part of the *offer document*. The *firm* may instead insert a reference to the relevant section of that *illustration*.
- 6.4.13 R A *firm* must ensure that the contact details section of the *offer document* (as required by *MCOB* 5.6.122R) also includes information on how to complain to the *firm* about the services provided by the *firm* in relation to the *regulated mortgage contract* and whether or not complaints may subsequently be referred to the *Financial Ombudsman Service*.
- 6.4.14 G *DISP* 1.2.1R requires a *firm* to have in place a complaints handling policy for handling complaints about its services, and also for referring to another *firm* complaints about that other *firm's* services.
- 6.4.15 G In addition to the information required by *MCOB* 6.4.13R, a *firm* may include information about how to complain to any other *firm* about the services that *firm* provided to the *customer* in relation to

the *regulated mortgage contract*. For example, where the customer received advice from another *firm*, a *mortgage lender* may include contact details for the *firm* that provided the advice.

6.4.16 R If the *firm* knows at the point that the offer is made to the *customer* that its interest in the *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.

6.4.17 R Where *MCOB* 6.4.16R 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 *customer* of this as soon as it becomes known.

6.4.18 G *MCOB* 6.4.16R and *MCOB* 6.4.17R could apply where the ownership of a *regulated mortgage contract* is transferred to a third party through *securitisation*.

6.5 Information to be provided in the offer document or separately
Tariff of charges

6.5.1 R If a *firm* makes an offer to a *customer* with a view to entering into a *regulated mortgage contract*, it must provide the *customer*, along with the *offer document*, with a *tariff of charges* that could be incurred on the *regulated mortgage contract*.

6.5.2 R If the *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*.

6.5.3 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

6.5.4 R If a *firm* makes an offer to a *customer* with a view to entering into a *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.

- 6.5.5 G A *firm* may include the information described in *MCOB 6.5.4R* as an integral part of the *offer document*, or provide it separately along with the *offer document*.

Distance contracts with retail customers

- 6.5.6 R If a *firm* makes an offer to a *retail customer* with a view to *entering into a regulated mortgage contract* which is a *distance contract*, it must provide the *retail customer* with the following information with the *offer document*:
- (1) the *EEA State* or *States* whose laws are taken by the *firm* as a basis for the establishment of relations with the *customer* prior to the conclusion of the *regulated mortgage contract*;
 - (2) any contractual clause on law applicable to the *regulated mortgage contract* or on 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 *regulated mortgage contract*; and
 - (4) if not provided previously:
 - (a) all of the contractual terms and conditions of the *regulated mortgage contract* to which the *offer document* relates; and
 - (b)
 - (i) confirmation that the *mortgage lender* is *authorised* and regulated by the *FSA*;
 - (ii) the *mortgage lender's FSA register* number; and
 - (iii) confirmation that the *customer* can check the *FSA register* on the *FSA's* website www.fsa.gov.uk/register/ or by contacting the *FSA* on 0845 606 1234.

6.6 Offer documents in place of illustrations

- 6.6.1 R If a *firm* provides a *customer* with an *offer document* in place of an *illustration* in accordance with *MCOB 5.5.1R(3)*, it must take reasonable steps to ensure that it provides the *offer document* in accordance with the requirements for providing an *illustration* in *MCOB 5.4* (Illustrations: general) and *MCOB 5.5* (Provision of illustrations).

- 6.7 **Business loans**
- 6.7.1 R (1) Where the *regulated mortgage contract* is for a business purpose, a *firm* may choose to provide a *customer* with a *business offer document* instead of the *offer document* referred to in *MCOB 6.4.1R*.
- (2) If a *firm* provides a *customer* with a *business offer document* in accordance with (1), it must ensure that:
- (a) an updated *business illustration*, as required by *MCOB 5.7* (Pre-application disclosure for business loans), forms part of the *business offer document*;
- (b) subject to the tailoring required by *MCOB 5.7* (Pre-application disclosure for business loans), the *business offer document* complies with *MCOB 6.4* (Content of the offer document).
- 6.7.2 G *MCOB 6.7.1R(2)(a)* means, for example, that the required text in *MCOB 6.4.4R(8)* should be replaced by text that satisfies the requirements for *business illustrations* in *MCOB 5.7.5R*
- 6.7.3 G A *firm* may supplement the first paragraph of text prescribed in *MCOB 6.4.4R(5)(a)* to clarify that, while the *regulated mortgage contract* is not binding until the relevant mortgage document has been signed and funds have been released, the *business offer document* may form part of a wider set of negotiated facilities and that the *customer* is separately bound by these.

7 DISCLOSURE AT START OF CONTRACT AND AFTER SALE

7.1 Application

Who?

7.1.1 R 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 Table

This table belongs to *MCOB 7.1.1R*

(1) Category of firm	(2) Applicable section
<i>mortgage lender</i>	<i>whole chapter</i>
<i>mortgage administrator</i>	<i>MCOB 7.1 – MCOB 7.3.3R</i> <i>MCOB 7.5 – MCOB 7.7.4R</i>
<i>mortgage adviser</i> <i>mortgage arranger</i>	<i>MCOB 7.1 – MCOB 7.3.3R</i> <i>MCOB 7.6.7R – MCOB 7.7.4R</i>

What?

7.1.3 R This chapter applies if a *firm*:

- (1) *enters into a regulated mortgage contract with a customer; or*
- (2) *administers a regulated mortgage contract which was entered into with a customer; or*
- (3) *arranges or advises on or makes a further advance or other variation to the terms of a regulated mortgage contract entered into with a customer.*

7.1.4 R This chapter applies in relation to further advances and other variations (as specified in *MCOB 7.6.7R – MCOB 7.7.4R*) regardless of whether they are variations to an existing *regulated mortgage contract* or are such that they involve the customer entering into a new *regulated mortgage contract*.

7.1.5 R This chapter also applies in relation to *regulated mortgage contracts* in circumstances where the original *mortgage lender*

has passed on ownership of the loan to a third party through *securitisation*. In such a case, the rules in *MCOB 7.5 – MCOB 7.7.4R* will apply to the *firm* which *administers* the *regulated mortgage contract*.

- 7.1.6 R In *MCOB 7.6.7R* (Further advances), *MCOB 7.6.18R* (Rate switches) and *MCOB 7.6.22R* (Addition or removal of a party to the contract), if a *customer* submits an informal application as his first contact with a *firm*, the *illustration* required to be provided to a *customer* in accordance with those *rules* must be provided and the transaction must not proceed until the *customer* has made a formal application confirming that it should proceed.
- 7.1.7 G *Firms* are reminded that in *MCOB*, references to “arranging” include the activities of a *mortgage lender* which would be *arranging* but for article 28A of the *Regulated Activities Order* (Arranging contracts to which the arranger is a party).
- 7.1.8 R In relation to a *regulated lifetime mortgage contract*, this chapter *MCOB 7* is replaced by *MCOB 9* (Lifetime mortgages - product disclosure).
- 7.2 Purpose
- 7.2.1 G (1) This chapter amplifies *Principle 7*, which requires a *firm* to pay due regard to the information needs of its *customers* and to treat them fairly. This chapter requires information to be supplied to *customers* at the start of the *regulated mortgage contract* to enable them to check that the *regulated mortgage contract* has been set up in accordance with their requirements and to notify them of the first and subsequent payments.
- (2) Where a *firm* provides services to a *customer* in relation to the variation of a *regulated mortgage contract*, this chapter also requires that the *customer* is provided with an *illustration* to make clear the price and features associated with that variation.
- (3) This chapter also ensures that *customers* are supplied with information which enables them to check the payments and charges on a *regulated mortgage contract*, to keep track of the transactions on, and the features of, a *regulated mortgage contract* and to be kept informed of material changes.

- (4) To ensure that a *customer* has a record of the information required by this chapter, *MCOB 7.3.2R* requires the information to be provided to the *customer* in a *durable medium*.

7.3 General

7.3.1 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.

7.3.2 R **A *firm* must provide all of the information required by this chapter in a *durable medium*.**

Information provided in more than one document

7.3.3 R **The information required by this chapter, *MCOB 7*, may be provided in more than one document, provided the use of several documents does not materially diminish the significance of any information the *firm* is required to give the *customer*, or the ease with which this can be understood.**

7.4 Disclosure at the start of the contract

Disclosure requirements

7.4.1 R **A *firm* that enters into a regulated mortgage contract with a *customer* must provide the *customer* with the following information before the *customer* makes the first payment under that regulated mortgage contract:**

- (1) the amount of the first payment required;
- (2) the amount of the subsequent payment(s) if different from the first payment;
- (3) the method by which the payment will be collected (for example, by direct debit) and the date of collection of the first and subsequent payment;
- (4) confirmation of whether, in connection with the regulated mortgage contract, insurance or investments (such as a repayment vehicle, term assurance, buildings and contents insurance or payment protection insurance) have been purchased through the *firm*;
- (5) the first premium (and subsequent premium where different) for any insurance or investments purchased

through the *firm* in connection with the *regulated mortgage contract*;

- (6) confirmation of whether the insurance or *investment* premiums in (5) are to be collected with the mortgage payment or separately (where the latter applies, the *firm* must give details or state that these will be confirmed separately);
- (7) confirmation of whether the *regulated mortgage contract* is a *repayment mortgage* or *interest-only mortgage*, or a combination of both;
- (8) if all or part of the *regulated mortgage contract* is an *interest-only mortgage*, a reminder to the *customer* to check that a *repayment vehicle* is in place, if the *repayment vehicle* is not provided by the *firm*;
- (9) what to do if the *customer* falls into *arrears*, explaining the benefit of making early contact with the *firm*, providing the address and telephone number of a contact point for the *firm*, and drawing the *customer's* attention to the *arrears* charges set out in the *tariff of charges*;
- (10) confirmation of any *linked borrowing* and *linked deposits*; and
- (11) whether the *regulated mortgage contract* permits the *customer* to make any overpayments or underpayments of the amounts due.

7.4.2 R The information in *MCOB 7.4.1R* must be provided to the customer in a single communication, except (4), (5) and (6) which may be provided separately.

7.4.3 G In the case of a *regulated mortgage contract* under which the loan is advanced to the *customer* in separate tranches, the amount required under *MCOB 7.4.1R(1)* will be the repayment relating to the first tranche. The amount(s) required under *MCOB 7.4.1R(2)* will need to reflect the fact that when each subsequent tranche is advanced, the payment that the *customer* will need to make will change.

Record keeping

7.4.4 R (1) A *firm* must make and retain an adequate record of the information that it provides to each *customer* at the

start of the *regulated mortgage contract* in accordance with this section.

- (2) The record required by (1) must be maintained for a year from the date that the information is provided to the *customer*.

7.5

Statements

Annual statement: requirement

7.5.1

R Subject to *MCOB 7.5.2R*, a *firm* must provide the *customer* with a statement at least once a year:

- (1) covering the *regulated mortgage contract* and any *tied product* purchased through the *firm*; and
- (2) giving information about the existence of any *linked borrowing* or *linked deposits*, or any other products purchased through the *firm* where the payments for those products are combined with the payments on the *regulated mortgage contract*.

7.5.2

R Where a *tied product* is operated separately from the *regulated mortgage contract*, for example where the premiums on a tied insurance product are not combined with payments on the *regulated mortgage contract*, the statement required by *MCOB 7.5.1R* in relation to the *tied product* may be provided in a separate communication.

Annual statement: content

7.5.3

R The statement required by *MCOB 7.5.1R* must contain the following:

- (1) except in the case of *mortgage credit cards*, information on the type of *regulated mortgage contract*, including:
 - (a) a clear statement of whether the *regulated mortgage contract* is an *interest-only mortgage*, or *repayment mortgage*, or a combination of both; and
 - (b) a prominent reminder, where all of the *regulated mortgage contract* is an *interest-only mortgage*, that:

- (i) the *customer's* payments to the *firm* do not include the costs of any *repayment vehicle* (if that is the case); and
- (ii) the *customer* should have in place arrangements to pay off the capital, and should check the performance of any *investments* they might have in place for this purpose;

using the following text:

‘This is an interest-only mortgage. Your mortgage payments [include the costs of a savings plan/an investment that you][do not include the costs of any savings plan or other investment you may] have arranged to build up a lump sum to repay the amount you borrowed. It is important to check regularly that your savings plan or other investment is on track to repay this mortgage at the end of the term.’

- (c) a prominent reminder, where only part of the *regulated mortgage contract* is an *interest-only mortgage*, that:
 - (i) the *customer's* payments to the *firm* do not include the costs of any *repayment vehicle* (if that is the case); and
 - (ii) the *customer* should have in place arrangements to pay off the amount of the loan that is on an *interest-only* basis, and should check the performance of any *investments* they might have in place for this purpose;

using the following text:

‘This mortgage includes [insert amount] borrowed on interest-only terms. Your mortgage payments [include the costs of a savings plan/an investment that you][do not include the costs of any savings plan or other investment you may] have arranged to build up a lump sum to repay this amount. It is important to check regularly that your savings plan or other investment is on

track to repay the interest-only part of your mortgage at the end of the term.’

- (2) details of the following transactions and information on the *regulated mortgage contract* during the period since the last statement (or, where the statement is the first statement, since the *customer* entered into the *regulated mortgage contract*):
 - (a) the date and amount of each payment made;
 - (b) the amount of each payment that was due during the statement period;
 - (c) the rates(s) of interest applicable to the *regulated mortgage contract* during the statement period and, if applicable, the date(s) on which the rate(s) of interest changed;
 - (d) the amount of interest charged under the *regulated mortgage contract* during the statement period; and
 - (e) any other amounts charged under the *regulated mortgage contract* during the statement period, including fees and any amounts due in relation to *tied products*;
- (3) a reminder that the *customer* should contact the *firm* if they are unable to make their regular payments under the *regulated mortgage contract*; and
- (4) information at the date the statement is issued on:
 - (a) the amount owed by the *customer* under the *regulated mortgage contract*;
 - (b) the actual remaining term of the *regulated mortgage contract* (but if the term of the *regulated mortgage contract* is open-ended this should be clearly stated);
 - (c) the date at which any *early repayment charges* on the *regulated mortgage contract* cease to apply;
 - (d) where applicable, the *early repayment charge* that applies, expressed as a monetary amount (see *MCOB 5.6.84R*);

- (e) the cost of redeeming the *regulated mortgage contract* (this must be shown as the sum of *MCOB 7.5.3R(4)(a)* and *MCOB 7.5.3R(4)(d)* plus any other charges that can be quantified at the date the statement is issued); if additional charges are payable that cannot be quantified at the point that the statement is issued (for example if the *customer* is in *arrears*) a warning must be included to that effect (see *MCOB 7.5.7R* regarding what is included in the cost of redeeming the *regulated mortgage contract*); and
- (f) where applicable, the date on which the requirement for the *customer* to purchase any *tied products* from the *firm* comes an end.

7.5.4 R In the limited circumstances where it would be unlikely for a *repayment vehicle* to be set up for an *interest-only mortgage* (for example, a short term bridging loan) the text in *MCOB 7.5.3R(1)(b)(ii)* or *MCOB 7.5.3R(1)(c)(ii)* is replaced with the following:

“As all or part of your mortgage is an interest-only mortgage, it assumes that you pay back the total amount borrowed on an interest-only basis as a lump sum at the end of the mortgage term.”

7.5.5 R Where a *firm* provides a *customer* with a statement containing the information set out in *MCOB 7.5.3R(2)* more frequently than once a year, the information set out in *MCOB 7.5.3R(1)*, *MCOB 7.5.3R(3)* and *MCOB 7.5.3R(4)* may be provided in a separate communication, but must be provided at least once a year.

7.5.6 G Whether a *firm* is likely to provide the information set out in *MCOB 7.5.3R(2)* more frequently than once a year will depend on the nature of the *regulated mortgage contract*. In determining how frequently to provide that information, a *firm* should take into account the need to keep the *customer* informed of any changes in the amount they owe, the *customer's* expectations and, where appropriate, the duration of the loan. For example, for a *mortgage credit card* the information might be provided monthly.

7.5.7 R The cost of redeeming a *regulated mortgage contract* referred to in *MCOB 7.5.3R(4)(e)* includes the full amount owed by the *customer* that must be repaid on surrendering the mortgage. This means that the balances of any *linked borrowing* that cannot be retained after the mortgage has been redeemed must

be included in the calculation of the cost of redeeming the regulated mortgage contract.

Annual statement – additional content for customers in arrears

7.5.8 G If a *firm* chooses to use the annual statement to provide a *customer* with a regular written statement in accordance with *MCOB* 13.5.1R (Statements of charges), as described in *MCOB* 13.5.2G(4), it will need to include the actual payment shortfall in the annual statement.

7.5.9 G In some circumstances, a *firm* may agree a temporary payment plan with a *customer* that does not involve the *customer* paying the full amount he owes in each payment period. Where an account in *arrears* is subject to such a payment plan, and the amount that falls due each payment period is greater than the agreed payment, the *firm* will still need to show the payments that were due in accordance with *MCOB* 7.5.3R(2)(b). However, in these circumstances, the *firm* may wish to add information to acknowledge that a temporary payment plan is in place.

Annual statement: additional content if tariff of charges has changed

7.5.10 R If the *tariff of charges* has changed since the last annual statement was sent to the *customer* (or, where the annual statement is the first statement, since the *customer* entered into the *regulated mortgage contract*) and a *firm* has not already sent a revised *tariff of charges* to the *customer*, it must include one with the annual statement.

7.6 Event-driven information

Notification of payment changes and other material changes to terms and conditions

7.6.1 R A *firm* must give the *customer* reasonable notice, in advance, of:

(1) any changes to the payments that the *customer* is required to make resulting from interest rate changes; and

(2) any material change by the *firm* (other than changes which come within *MCOB* 7.6.2R) to the terms and conditions of the *regulated mortgage contract*, where that change is permitted without the *customer's* prior consent.

Notification where the regulated mortgage contract is sold, assigned or transferred

- 7.6.2 R A *firm* must notify a *customer*, as soon as the details are known, of who will be responsible for setting interest rates and charges on the *regulated mortgage contract* if any interest in the *regulated mortgage contract* is to be sold, assigned, or transferred, and the *firm* will no longer be responsible for this.
- 7.6.3 R For the purposes of *MCOB 7.6.2R* the *firm* may be treated as continuing to be responsible for setting interest rates and charges if, under the terms of the sale, assignment or transfer, it is expected that the rates and charges will continue to be set by reference to, and be no higher than, those set by the *firm* for other contracts of the same kind.
- 7.6.4 G *MCOB 7.6.2R* and *MCOB 7.6.3R* may be relevant where a *regulated mortgage contract* is transferred to a third party through *securitisation*.

Notification where additional borrowing taken up

- 7.6.5 R Where the *customer* has, in accordance with the terms of the *regulated mortgage contract*, taken up an additional tranche of borrowing on a mortgage that is released in tranches and this did not require any further approval of the *mortgage lender*, a *firm* must provide confirmation as soon as possible of:
- (1) the new amount owed by the *customer* under the *regulated mortgage contract*;
 - (2) the amount of each payment that is due; and
 - (3) the interest rate charged.
- 7.6.6 G Examples of where *MCOB 7.6.5R* will apply are the release of tranches of money to the *customer* in relation to a self-build mortgage or other instalment mortgage.

Further advances

- 7.6.7 R Before a *customer* submits an application to a *firm* for a further advance on an existing *regulated mortgage contract* or for a further advance that is a new *regulated mortgage contract*, if the further advance requires the approval of the *mortgage lender*, the *firm* must provide the *customer* with an *illustration* that complies with the requirements of *MCOB 5* (Pre-application disclosure) and *MCOB 7.6.9R* to *MCOB 7.6.17R* for

the further advance, unless an *illustration* has already been provided or the *regulated mortgage contract* is for a business purpose (see *MCOB 7.7 (Business loans)*).

- 7.6.8 G If a number of different *firms* are involved in relation to the transaction referred to in *MCOB 7.6.7R*, 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* required by *MCOB 7.6.7R*.
- 7.6.9 R **The *illustration* provided in accordance with *MCOB 7.6.7R* must;**
- (1) be based on the amount of the further advance only;**
 - (2) use the term ‘additional borrowing’ in place of the term ‘mortgage’ where appropriate throughout the titles and text of the *illustration*;**
 - (3) include an additional section headed: ‘Total borrowing’ and numbered ‘7a’ after Section 7, including the following text:**
 - (a) “This section gives you information about how your mortgage will be affected by taking out this additional borrowing. Talk to [your mortgage lender][insert name of mortgage lender] if you are not sure of the details of your current mortgage.”; and**
 - (b) a clear statement explaining the total amount that the *customer* will owe if he takes out the additional borrowing and what the *customer’s* new payments will be.**
 - (4) include a clear statement, where all or part of the *regulated mortgage contract* is an *interest-only mortgage* and the amount paid in each instalment does not include the cost of a *repayment vehicle*, to indicate that these payments do not include the cost of any savings plan or other investment.**
- 7.6.10 G In order to comply with *MCOB 7.6.9R(1)*, a *firm* should calculate the *APR* required by *MCOB 5.6.34R* on the basis of the further advance amount only.
- 7.6.11 G For the purposes of *MCOB 7.6.9R(3)* and (4):

- (1) a *customer's* existing mortgage includes a mortgage entered into prior to 31 October 2004 as well as a *regulated mortgage contract*;
 - (2) the frequency of payments is that in *MCOB 5.6.40R*; and
 - (3) a *firm* may generally rely on information provided by the *customer* unless, taking a common-sense view of this information, it has reason to doubt it.
- 7.6.12 G An example of the total borrowing section referred to in *MCOB 7.6.9R(3)* is in *MCOB 7 Ann 1G*.
- 7.6.13 R **Where not all of the mortgage interest rates described in accordance with *MCOB 5.6.25R(2)(a)* apply for the term of the loan part to which they apply, the *firm* must disclose the amount that will be paid in each instalment when complying with *MCOB 7.6.9R(3)(b)*, including the following information:**
- (1) when a change in payment will occur;
 - (2) the reason for the change in payment; and
 - (3) confirmation that the payment illustrated assumes rates will not change.
- 7.6.14 R **The *illustration* provided in accordance with *MCOB 7.6.7R* 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 for a further advance.**
- 7.6.15 G *MCOB 7.6.14R* allows the *firm* to make changes to wording and to add, remove or alter information that would otherwise be misleading for the *customer*. For example, the *firm* may add text to let the *customer* know if conditions applying to the original mortgage do not apply to the additional borrowing, such as ‘The early repayment charges applying to your existing loan do not apply to this additional borrowing.’
- 7.6.16 R (1) **(In the case of a *business illustration*), *MCOB 5.6.16R* is replaced with the following:**
- “Section 1: ‘About this illustration’**
- Under the section heading ‘About this illustration’, the following text must be included:**

‘We are required by the Financial Services Authority (FSA) – the independent watchdog that regulates financial services – to provide you with this illustration.’”

- (2) (In all other cases), *MCOB 5.6.16 R* is replaced with the following;

“Section 1: ‘About this illustration’

Under the section heading ‘About this illustration, the following text must be included:

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

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

- 7.6.17 R (1) Where the further advance for which the *customer* has applied is in the form of an annual insurance premium secured by a first legal charge, a *firm*:
- (a) may, instead of providing an *illustration* in accordance with *MCOB 7.6.7R*, provide confirmation of the matters required by *MCOB 7.6.5R*; and
- (b) where (a) applies use the following text:
- “Your annual insurance premium has been/will be added to your mortgage account [unless you pay it by dd/mm/yy]. If you choose to pay it in full on or before dd/mm/yy there will be no extra cost. If you do not, interest will be charged on the amount outstanding at [insert details of the applicable interest rate e.g. ‘the same rate as your mortgage’ or ‘the standard variable rate which is currently x%’].”**
- (2) If the insurance premium described in (1) is not an annual premium, (1)(a) and (b) apply but a *firm* must amend the text in (1)(b) to reflect the length of the contract.

Rate switches

- 7.6.18 R Before a *customer* submits an application to a *firm* to change all or part of a *regulated mortgage contract* from one type of interest rate to another (for example, a transfer from a variable rate *regulated mortgage contract* to a fixed rate *regulated mortgage contract*, or from one fixed rate *regulated mortgage contract* to another fixed rate *regulated mortgage contract*), the *firm* must provide the *customer* with an *illustration* for the whole loan that complies with the requirements of *MCOB 5* (Pre-application disclosure), unless such an *illustration* has already been provided.
- 7.6.19 G If a number of different *firms* are involved in relation to the transaction referred to in *MCOB 7.6.18R*, 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* required by *MCOB 7.6.18R*.
- 7.6.20 R The *illustration* provided in accordance with *MCOB 7.6.18R* may diverge from the requirements of *MCOB 5* where it is necessary to do so in order to reflect the fact that the *illustration* is being provided for a rate switch.
- 7.6.21 G *MCOB 7.6.20R* allows 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
- (1) Except where (2) applies, 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 an *illustration* for the whole loan that complies with the requirements of *MCOB 5* (Pre-application disclosure).
 - (2) A *firm* is not required to provide the *illustration* required by (1) where the removal of a party to a *regulated mortgage contract* is the result of the death of that party, and no other party is to be added to the *regulated mortgage contract*.

- 7.6.23 G The *FSA* would not view a guarantor as a party to a *regulated mortgage contract*, so *MCOB 7.6.22R(1)* does not mean that someone becoming a guarantor to the *regulated mortgage contract* should receive an *illustration*.
- 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* required by *MCOB 7.6.22R*.
- 7.6.25 R **The *illustration* provided in accordance with *MCOB 7.6.22R* 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.**
- 7.6.26 G *MCOB 7.6.25R* 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*.
- 7.6.27 R **For the purposes of *MCOB 7.6.22R*, *MCOB 5.6.17R* is replaced with the following;**
- “Section 2: ‘Which service are we providing you with?’**
- Under the section heading ‘Which service are we providing you with?’ the following text should be included:**
- ‘We are providing you with an illustration for the [addition/removal] of [a party/parties] to this mortgage. You must make your own choice about whether changing the parties to this mortgage is right for you.’”**
- Changes to the amount of each payment due**
- 7.6.28 R **If a *customer* requests, or agrees to, a change to a *regulated mortgage contract* (other than a change as described in *MCOB 7.6.7R* to *MCOB 7.6.27R*) that changes the amount of each payment due, a *firm* must provide the *customer* with the following information, in a single communication, before the change takes effect:**
- (1) the amount outstanding on the *regulated mortgage contract* at the date the change is requested;**

- (2) the payment due and the frequency of payments; where it is known that the payment will change (for example at the end of a fixed rate period), the new payment and the date of the change must also be shown;
- (3) the rate of interest applying to the *regulated mortgage contract*; where it is known that the rate of interest will change, the new rate and the date of the change must also be shown;
- (4) the type of interest rate (for example fixed, or discounted); where it is known that the type of interest rate will change the new type and the date of the change must also be shown;
- (5) where the *regulated mortgage contract* will change to an *interest-only mortgage*, a prominent reminder that the *customer* should have in place arrangements to repay the capital, using the following text:

‘You will still owe [insert amount borrowed or, where part of the *regulated mortgage contract* is an *interest-only mortgage*, insert the amount borrowed under the *interest-only mortgage*] at the end of the mortgage term. You will need to make separate arrangements to repay this. When comparing the payments on this mortgage with your existing mortgage, remember to add any money you may need to pay into a separate savings plan to build up a lump sum to repay the amount you have borrowed.’; and

- (6) details of any charges that apply for changing the *regulated mortgage contract*.

- 7.6.29 G Examples of where *MCOB 7.6.28R* will apply are where the *customer* requests a change from an *interest-only mortgage* to a *repayment mortgage*, requests a change to the term of his mortgage or agrees to his *arrears* being capitalised.
- 7.6.30 G If a number of different *firms* are involved in relation to the transaction referred to in *MCOB 7.6.28R*, 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 information required by *MCOB 7.6.28R*.

Use of illustrations in place of information under *MCOB* 7.6.28R

- 7.6.31 R Where *MCOB* 7.6.28R applies, a *firm* may issue an *illustration* in accordance with *MCOB* 5 (Pre-application disclosure) in place of the information set out in *MCOB* 7.6.28R.
- 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 an *illustration* issued in accordance with *MCOB* 7.6.18R or *MCOB* 7.6.22R.

Simultaneous request for a product switch and addition or removal of a party to a contract

- 7.6.33 G Where a *customer* simultaneously requests a product 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* 7.6.18R and *MCOB* 7.6.22R. The *firm* may provide the *customer* with a single *illustration* that complies with the requirements of *MCOB* 5 (Pre-application disclosure) for both.

7.7 Business loans

- 7.7.1 R (1) Where, in relation to a *regulated mortgage contract* for a business purpose, a *customer* either:
- (a) seeks an immediate increase in the borrowing provided under the *regulated mortgage contract*; or
 - (b) overdraws on the borrowing under the *regulated mortgage contract*;
- the further advance rules in *MCOB* 7.6.7R to *MCOB* 7.6.17R do not apply.
- (2) Where (1) applies, the *firm* must within five *business days* provide the *customer* with either:
- (a) a *business illustration* for the new total borrowing; or

- (b) the following information, in a single communication:
 - (i) the new amount outstanding on the *regulated mortgage contract*;
 - (ii) details of any changes in the repayment arrangements or interest rate charged as a result of the change;
 - (iii) where there is a new *early repayment charge* or a change to the existing *early repayment charge*, the maximum amount payable as an *early repayment charge* in respect of the *regulated mortgage contract*; and
 - (iv) details of any charges that apply for changing the *regulated mortgage contract*.

7.7.2 G Where a *customer* remains in breach, for more than one month, of an agreed borrowing limit or of an obligation to repay where the *regulated mortgage contract* does not have a regular repayment plan, *firms* are reminded that *MCOB 13* (Arrears and repossessions) applies.

7.7.3 R Where a *customer* applies for a further advance that is a *regulated mortgage contract* for a business purpose and *MCOB 7.7.1R* does not apply:

- (1) the *business illustration* must be based upon the total borrowing; and
- (2) *MCOB 7.6.9R* to *MCOB 7.6.10G* and *MCOB 7.6.12G* do not apply.

7.7.4 R Where *MCOB 7.6.28R(5)* applies, a *firm* may omit the final sentence of the required text where it is aware, in the context of an *interest-only mortgage*, that the *customer's* intention is not to use a savings plan as a *repayment vehicle*.

MCOB 7 Annex 1G

This Annex belongs to *MCOB 7.6.12G*

An example of the Total Borrowing section

7a. Total Borrowing	
This section gives you information about how your mortgage will be affected by taking out this additional borrowing. Talk to your mortgage lender if you are not sure of the details of your current mortgage.	
When this additional borrowing is added to your existing mortgage, the total amount you owe will be £ x and your monthly payments based on this amount will be;	Monthly Payment
Initial monthly payment	£ a
After 12 months the discount period on your further borrowing will end, and assuming rates do not change, your new monthly payment will be	£ b
After 26 months the fixed rate period on a portion of your mortgage will end, and assuming rates do not change, your new monthly payment will be	£ c
Remember to add the cost of any savings plan to these monthly payments.	

8 LIFETIME MORTGAGES: ADVISING AND SELLING STANDARDS

8.1 Application

Who?

8.1.1 R This chapter applies to a *firm* in a category listed in column (1) of the table in *MCOB 8.1.2R* in accordance with column (2) of that table.

8.1.2 R Table

This table belongs to *MCOB 8.1.1R*

(1) Category of firm	(2) Applicable section
<i>mortgage lender</i>	whole chapter except <i>MCOB 8.5</i>
<i>mortgage adviser</i>	whole chapter
<i>mortgage arranger</i>	whole chapter except <i>MCOB 8.5</i>

What?

8.1.3 R This chapter applies if a *firm*:

- (1) in the course of carrying on a *regulated mortgage activity*:
 - (a) makes, or anticipates making, a *personal recommendation* about; or
 - (b) gives, or anticipates giving, personalised information relating to;

the customer:

 - (c) entering into a *regulated lifetime mortgage contract*; or
 - (d) varying the terms of a *regulated lifetime mortgage contract* entered into by the *customer*; or
- (2) in addition to (1), gives advice or personalised information to the *customer* on home reversion schemes.

8.1.4 R (1) *MCOB 4.4* (Initial disclosure requirements) (as modified by *MCOB 8*) applies only in relation to varying the terms of a *regulated lifetime mortgage contract* entered into by the *customer* in any of the following ways:

- (a) adding or removing a party;
- (b) taking out a further advance; or

(c) switching all or part of the *regulated lifetime mortgage contract* from one type of interest rate to another.

(2) Otherwise, this chapter, *MCOB 8*, applies in relation to any form of variation of a *regulated lifetime mortgage contract*.

8.1.5 G If a *firm* is an *authorised professional firm*, *MCOB 1.2.10R(3)* has the effect that when the *firm* conducts *non-mainstream regulated activities* with a *customer*, *MCOB 4.4* (Initial disclosure requirements) (as modified by *MCOB 8*) applies. The *firm* is only required to provide the initial disclosure information in *MCOB 8 Ann 1R* or *MCOB 8 Ann 2R* section 7 (What to do if you have a complaint) and section 8 (Are we covered by the Financial Services Compensation Scheme (FSCS)?).

8.2 Purpose

8.2.1 G The purpose of this chapter for *regulated lifetime mortgage contracts* is the same as that for *regulated mortgage contracts* in *MCOB 4*.

8.3 Application of rules in *MCOB 4*

8.3.1 R (1) *MCOB 4.1* to *4.6* and *MCOB 4.8* (with the modifications stated in *MCOB 8.3.3R* and *MCOB 8.3.4R*) apply to a *firm* where the *regulated mortgage contract* is a *regulated lifetime mortgage contract*.

(2) The table in *MCOB 8.3.3R* shows how the relevant *rules* and *guidance* in *MCOB 4* must be modified by replacing the cross-references in that chapter with the relevant cross-references to *rules* and *guidance* in *MCOB 8*.

(3) The table in *MCOB 8.3.4R* replaces certain *rules* and *guidance* in *MCOB 4* with *rules* and *guidance* from *MCOB 8*.

8.3.2 R In applying *MCOB 4.3* to *regulated lifetime mortgage contracts*, references to the ‘whole market’ must be read as references to the whole market for *regulated lifetime mortgage contracts*.

8.3.3 R Table of modified cross-references to other rules:

This table belongs to *MCOB 8.3.1R*.

Subject	Rule or guidance	Reference in rule or guidance	To be read as a reference to:
Advice or information from the whole market	<i>MCOB 4.3.4R(2)</i>	<i>MCOB 4.7.2R</i>	<i>MCOB 8.5.2R</i>
Initial disclosure requirements (for <i>regulated lifetime</i>)	<i>MCOB 4.4.1R(1)(c)</i>	<i>MCOB 4 Ann 1R</i>	<i>MCOB 8 Ann 1R</i>

<i>mortgage contracts only</i>)	and (3)		
Initial disclosure requirements for <i>packaged products or non-investment insurance contracts (in addition to regulated lifetime mortgage contracts)</i>	<i>MCOB 4.4.1R(1)(c) and (3)</i>	<i>MCOB 4 Ann 2R</i>	<i>MCOB 8 Ann 2R</i>
Initial disclosure requirements	<i>MCOB 4.4.3G</i>	<i>MCOB 4</i>	<i>MCOB 4 as modified by MCOB 8</i>
Additional disclosure for <i>distance mortgage mediation contracts</i>	<i>MCOB 4.5</i>		
Non-advised sales	<i>MCOB 4.8.6G</i>	<i>MCOB 4.7</i>	<i>MCOB 8.5</i>

8.3.4 R Table of rules in *MCOB 4* replaced by rules in *MCOB 8*:

This table belongs to *MCOB 8.3.1R*.

Subject	Rule(s)	Rule(s) replaced by
Advised sales	<i>MCOB 4.7</i>	<i>MCOB 8.5</i>

8.4 Initial disclosure requirements: Home reversion schemes

8.4.1 R If a *firm* gives, or anticipates giving, advice or personalised information on home reversion schemes in addition to *regulated lifetime mortgage contracts*, the initial disclosure information in *MCOB 4.4.1R* and *MCOB 4.4.7R* must be provided in respect of the home reversion schemes, as well as the *regulated lifetime mortgage contracts*, using the text set out in *MCOB 8 Ann 1R* and *MCOB 8 Ann 2R*.

8.5 Advised sales

Suitability

8.5.1 G *Principle 9* requires a *firm* to take reasonable care to ensure the suitability of its advice. In accordance with that *principle*, a *firm* should take reasonable steps to obtain from a *customer* all information likely to be relevant for the purposes of *MCOB 8.5*.

- 8.5.2 R A *firm* must take reasonable steps to ensure that it does not make a *personal recommendation* to a *customer* to enter into a *regulated lifetime mortgage contract*, or to vary an existing *regulated lifetime mortgage contract*, unless the *regulated lifetime mortgage contract* is, or after the variation will be, suitable for that *customer* (see *MCOB 4.3.4R(2)*, *MCOB 4.3.5G* and *MCOB 4.3.6G*).
- 8.5.3 R In *MCOB 8.5*, a reference to a recommendation to enter into a *regulated lifetime mortgage contract* is to be read as including a reference to a recommendation to vary an existing *regulated lifetime mortgage contract* if the context so requires.
- 8.5.4 R For the purposes of *MCOB 8.5.2R*:
- (1) a *regulated lifetime mortgage contract* will be suitable if, having regard to the facts disclosed by the *customer* and other relevant facts about the *customer* of which the *firm* is or should reasonably be aware, the *firm* has reasonable grounds to conclude that:
 - (a) the benefits to the *customer* outweigh any adverse effect on:
 - (i) the *customer's* entitlement (if any) to means-tested benefits; and
 - (ii) the *customer's* tax position (for example the loss of an Age Allowance);
 - (b) alternative methods of raising the required funds such as, in particular:
 - (i) a home reversion scheme; or
 - (ii) (where relevant) a local authority (or other) grant;are less suitable;
 - (c) where the *regulated lifetime mortgage contract* requires that payments are made to the *mortgage lender* (for example an *interest-only mortgage*), the *customer* can afford to enter into the *regulated lifetime mortgage contract*;
 - (d) the *regulated lifetime mortgage contract* is appropriate to the needs, objectives and circumstances of the *customer*; and
 - (e) the *regulated lifetime mortgage contract* is the most suitable of those that the *firm* has available to it within the scope of the service provided to the *customer*;

- (2) no recommendation must be made if there is no *regulated lifetime mortgage contract* from within the scope of the service provided to the *customer* which is appropriate to his needs and circumstances; and
- (3) if a *firm* is dealing with an existing *customer* in arrears and has concluded that there is no suitable *regulated lifetime mortgage contract* for the purposes of *MCOB 8.5.2R*, the *firm* must nonetheless have regard to *MCOB 13.3.2E(1)(a)*, (e) and (f) (see also *MCOB 13.3.4G(1)(a)* and (b)).

8.5.5 R In determining whether *MCOB 8.5.4R(1)(a)* applies, where a *firm* has insufficient knowledge of means-tested benefits and tax allowances to reach a conclusion, the *firm* must refer a *customer* to an appropriate source or sources such as the Pension Service, Inland Revenue or Citizens Advice Bureau (or other similar agency) to establish the required information.

- 8.5.6 E
- (1) In determining whether *MCOB 8.5.4R(1)(b)(ii)* applies a *firm* should:
 - (a) establish, on the basis of information given by the *customer* about his needs and objectives, whether these appear to be within the general scope of a local authority (or other) grant (for example where the *customer* requires funds for essential repairs to his property); and
 - (b) refer a *customer* to an appropriate source such as his local authority or Citizens Advice Bureau (or other similar agency) to identify whether such a grant is available to him.
 - (2) Compliance with (1) may be relied upon as tending to show compliance with *MCOB 8.5.4R(1)(b)(ii)*.

8.5.7 R If for any reason a *customer*:

- (1) declines to seek further information in accordance with *MCOB 8.5.5R* or *MCOB 8.5.6E(1)*; or
- (2) rejects the conclusion of a *firm* under *MCOB 8.5.4R(1)(b)* that alternative methods of raising the required funds are more suitable;

a *firm* can make a *personal recommendation* (in accordance with the remaining requirements of *MCOB 8.5*) where there is a *regulated lifetime mortgage contract* (or more than one *regulated lifetime mortgage contract*) 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 *personal recommendation* has been made.

- 8.5.8 R In determining whether *MCOB 8.5.4R(1)(b)(i)* applies, and in relation to *MCOB 8.5.4R(1)(d)*, a *firm* must consider:
- (1) whether the *customer's* requirements meet the eligibility criteria for the *regulated lifetime mortgage contract* (for example, the amount that the *customer* wishes to borrow, or the loan-to-value ratio) or a home reversion scheme;
 - (2) the *customer's* preferences for his estate (for example, whether the *customer* wishes to be certain of leaving a bequest to his family or others);
 - (3) the *customer's* health and life expectancy;
 - (4) the *customer's* future plans and needs (for example, whether the *customer* is likely to need to raise further funds or is likely to move house);
 - (5) whether the *customer* has a preference or need for stability in the amount of payments (where payments are required) especially having regard to the impact on the *customer* of significant interest rate changes in the future; and
 - (6) whether the *customer* has a preference or need for any other features of a *regulated lifetime mortgage contract* or a home reversion scheme.
- 8.5.9 G Where a *firm* sells only *regulated lifetime mortgage contracts*, *MCOB 8.5.8R* does not require the firm to assess the suitability of individual home reversion schemes.
- 8.5.10 R In relation to *MCOB 8.5.4R(1)(c)*, a *firm* must explain to the *customer* that the assessment of whether he can afford to enter into a *regulated lifetime mortgage contract* is based on:
- (1) current interest rates, which might rise in the future; and
 - (2) the *customer's* current circumstances, which might change in the future.
- 8.5.11 R In relation to *MCOB 8.5.4R(1)(c)* and (d), where a *firm* makes a *personal recommendation* to a *customer* to enter into a *regulated lifetime mortgage contract* where a main purpose is to consolidate existing debts, it must also take account of the following, where relevant, in assessing whether the *regulated lifetime mortgage contract* is suitable for the *customer*:
- (1) the costs associated with increasing the period over which a debt is to be repaid;
 - (2) whether it is appropriate for the *customer* to secure a previously unsecured loan; and

- (3) where the *customer* is known to have payment difficulties, whether it would be more appropriate for the *customer* to negotiate an arrangement with his creditors than to take out a *regulated lifetime mortgage contract*.
- 8.5.12 E (1) In assessing whether a *customer* can afford to enter into a particular *regulated lifetime mortgage contract*, a *firm* should give due regard to the following:
- (a) information that the *customer* provides about his income and expenditure, and any other resources that he has available;
 - (b) any likely change to the *customer's* income, expenditure or resources; and
 - (c) the costs that the *customer* will be required to meet once any discount period in relation to the *regulated lifetime mortgage contract* comes to an end (on the assumption that interest rates remain unchanged).
- (2) Contravention of *MCOB 8.5.12E(1)* may be relied upon as tending to show contravention of *MCOB 8.5.4R(1)(c)*.
- 8.5.13 G A *firm* may generally rely on any information provided by the *customer* for the purposes of *MCOB 8.5.4R(1)* (c) and (d) and *MCOB 8.5.8R(2)* to *MCOB 8.5.8R(6)* unless, taking a common-sense view of this information, it has reason to doubt it.
- 8.5.14 G *MCOB 8.5.4R(3)* explains that different considerations apply when making a *personal recommendation* to a *customer* in arrears. For example, the circumstances of the *customer* may mean that, viewed as a new transaction, a *customer* could not be recommended to enter into a *regulated lifetime mortgage contract*. In such cases, a *firm* will still be able to make a *personal recommendation* to that *customer* where this recommendation is, in the circumstances, a more suitable one than the *customer's* existing *regulated lifetime mortgage contract*.
- 8.5.15 G In complying with *MCOB 8.5.4R* a *firm* is not required to consider whether it would be preferable for the *customer* to:
- (1) trade down (that is release funds by selling his existing property and purchasing a less expensive property) rather than enter into a *regulated lifetime mortgage contract*;
 - (2) rent a property, rather than purchase one or enter into a *regulated lifetime mortgage contract* on his existing property; or
 - (3) delay entering into a *regulated lifetime mortgage contract* until a later date on the grounds that property prices would have changed in the intervening period, or that the interest rate in relation to the *regulated lifetime mortgage contract* would be lower, or both.

- 8.5.16 G (1) *MCOB 8.5.4R(1)(d)* does not require a *firm* to provide *advice on investments*. Whether such *advice* should be given will depend upon the individual needs and circumstances of the *customer*. Where considered relevant, *MCOB 8* does not restrict the ability of an adviser to refer the *customer* to another source of *investment advice* (for example, where the adviser is not qualified to provide *advice on investments*).
- (2) Where the scope of the *advice* provided is restricted (within the meaning of *MCOB 4.3.1R(1)(b)* or (c)), *MCOB 8.5.4R(2)* means that the assessment of suitability should not be limited to the types of *regulated lifetime mortgage contracts* which the *firm* offers. *MCOB 8.5.4R(2)* prevents a *firm* recommending the ‘least worst’ *regulated lifetime mortgage contract* where the *firm* does not have access to products appropriate to the *customer’s* needs and circumstances. It means, for example, that a *firm* dealing solely in the sub-prime market should not recommend one of these *regulated lifetime mortgage contracts* if approached for *advice* by a *customer* with an unblemished credit record.
- 8.5.17 E (1) **A *firm* should, out of all the *regulated lifetime mortgage contracts* identified as being appropriate for that *customer*, recommend the one that is the least expensive for that *customer* taking into account those pricing elements identified by the *customer* as being most important to him.**
- (2) **Compliance with (1) may be relied upon as tending to show compliance with *MCOB 8.5.4R(1)(e)*.**
- 8.5.18 G (1) With regard to *MCOB 8.5.17E(1)* different *customers* are likely to identify different pricing elements as being of most importance. For example, it may be the overall cost, a fixed or capped rate of interest, the inclusion of a ‘no negative equity’ guarantee, or the absence of *early repayment charges* that a *customer* considers most important.
- (2) *MCOB 8.5.17E(1)* does not prevent a *firm* from making a recommendation on grounds other than price. For example, it would be open to a *firm* to have regard to the speed or quality of service of different *mortgage lenders*, the policies of *mortgage lenders* on further lending or capital repayments, the underwriting stance of *mortgage lenders* or the *customer’s* wish for a *regulated lifetime mortgage contract* that is compliant with Sharia law. The obligation to satisfy *MCOB 8.5.4R(1)(e)* remains the same in such cases.
- 8.5.19 G (1) If circumstances arise in which a *firm* has reasonable grounds to conclude that there are several *regulated lifetime mortgage contracts* that would satisfy the suitability requirement in *MCOB 8.5.4R*, the *firm* will act in conformity with that *rule* if it recommends only one of those *regulated lifetime mortgage contracts*.

- (2) If for any reason a *customer* rejects a recommendation made by a *firm* (for example, on the grounds that the *mortgage lender* selected is unknown to him), the *firm* can make a further recommendation (in accordance with the requirements of *MCOB 8.5*) where there remains a *regulated lifetime mortgage contract* that is appropriate to the needs and circumstances of the *customer*.

Rejected recommendations

- 8.5.20 R (1) If a *customer* has:
- (a) rejected all of the *personal recommendations* made by a *firm* and requested information instead on a *regulated lifetime mortgage contract* that the *firm* does not consider suitable (and therefore could not recommend to the *customer* in accordance with *MCOB 8.5.2R*); and
 - (b) been issued with a new initial disclosure document in accordance with *MCOB 4.4.1R* or *MCOB 4.4.7R* (as modified by *MCOB 8*);
- the *firm* may be able to provide information on that *regulated lifetime mortgage contract* in the light of the information on which the *personal recommendations* in (1) were made.
- (2) If the *firm* needs to ask further questions regarding the needs and circumstances of the *customer* to be able to provide information on that *regulated lifetime mortgage contract*, the *firm* must obtain that information by asking scripted questions (in accordance with *MCOB 4.8.1R* and *MCOB 8.6*).

- 8.5.21 G A *firm* may consider it prudent to record any cases where, after all *personal recommendations* it has made to a *customer* have been rejected, it changes the nature of the service it provides (as in *MCOB 8.5.20R*) and provides the *customer* with information about a *regulated lifetime mortgage contract*.

Record keeping

- 8.5.22 R (1) A *firm* must make and retain a record:
- (a) of the *customer* information, including that relating to the *customer's* needs and circumstances, that it has obtained for the purposes of *MCOB 8.5*; and
 - (b) that explains why the *firm* has concluded that any *personal recommendation* given in accordance with *MCOB 8.5.2R* satisfies the suitability requirements in *MCOB 8.5.4R(1)*. This explanation must include, where this is the case, the reasons why a *personal*

recommendation has been on a basis other than that described in *MCOB 8.5.17E(1)*.

- (2) The record in (1) must be retained for a minimum of three years from the date on which the *personal recommendation* was made.

8.6 Non-advised sales

8.6.1 R In relation to *MCOB 4.8.1R* the questions used to help a *customer* select a *regulated lifetime mortgage contract* must cover the following:

- (1) the matters set out in *MCOB 8.5.8R*;
- (2) whether the *customer* has considered alternative methods of raising the required funds, and in particular;
 - (a) a home reversion scheme; and
 - (b) where relevant, grant assistance from his local authority (or other provider); and
- (3) whether the *customer* has established whether either his entitlement to means-tested benefits or his tax position or both will be adversely affected.

8.6.2 G In complying with *MCOB 8.6.1R(2)* and (3) a *firm* should encourage a *customer* to seek *advice* on a *regulated lifetime mortgage contract* if the *customer* is unsure about making their own choice. In the case of *MCOB 8.6.1R(2)(b)* and (3) a *firm* should, where relevant, encourage the *customer* to seek further information from an appropriate source such as their local authority or Citizens Advice Bureau (or other similar agency).

8.6.3 G Firms are reminded that *TC 2* sets out requirements for:

- (1) *employees* designing scripted questions for use in sales to *customers* of *regulated lifetime mortgage contracts* which do not involve *personal recommendations*; and
- (2) *employees* overseeing on a day-to-day basis the sales to *customers* of *regulated lifetime mortgage contracts* which do not involve *personal recommendations*.

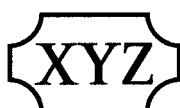
This annex belongs to *MCOB 4.4.1R* (as modified by *MCOB 8*) and *MCOB 8.4.1R*

Firms must omit the notes and square brackets that appear in the following IDD. The IDD must contain the key facts logo, headings and text in the order shown and in accordance with the Notes [Note 1].



about our lifetime mortgage [and home reversion scheme] services

[Note 2] [Note 3]



Financial Services

[Note 6]
123 Any Street
Some Town
ST21 7QB

[Note 4] [Note 5]

1. The Financial Services Authority (FSA)

The FSA is the independent watchdog that regulates financial services. It requires us to give you this document. Use this information to decide if our services are right for you.

2. Whose products do we offer? [Note 7] [Note 8]

- We offer products from the whole market.
- We [can] [Note 9] only offer products from a limited number of companies. Ask us for a list of the companies we offer products from. [Note 10]
- We [can] [Note 9] only offer [a limited range of the] products from [a single company] [name of single company]. [Note 11] [or] [Name of firm] [can] only offer its own products.[Note 12]

3. Which service will we provide you with? [Note 7]

- We will advise and make a recommendation for you after we have assessed your needs.
- You will not receive advice or a recommendation from us. We may ask some questions to narrow down the selection of products that we will provide details on. You will then need to make your own choice about how to proceed.

4. What will you have to pay us for this service? [Note 7]

- No fee [we will be paid by commission from the company]. [Note 13]
- A fee of £[] [payable at the outset and £[] payable when you apply for a lifetime mortgage [or home reversion scheme]]. [Note 14]

You will receive a key facts illustration when considering a particular lifetime mortgage, [or further information about a particular home reversion scheme] which will tell you about any fees relating to it. [Note 3]

5. Refund of fees [Note 15] [Note 16]

If we charge you a fee, and your lifetime mortgage [or home reversion scheme] does not go ahead, you will receive: [Note 3]

- A full refund [if the firm rejects your application]. [Note 17]
 - A refund of £[] [if the application falls through] [Note 17] [Note 18]
 - No refund [if you decide not to proceed]. [Note 17]
-

6. Who regulates us? [Note 19]

[XYZ Financial Services] [123 Any Street, Some Town, ST21 7QB] [Note 20] [Note 6] is authorised [Note 21] and regulated by the Financial Services Authority. Our FSA register number is []

[OR] [Name of *appointed representative*] [Note 5] is an appointed representative of [name of *firm*] [123 Any Street, Some Town, ST21 7QB] [Note 20] [Note 6] which is authorised and regulated by the Financial Services Authority. [name of *firm*]'s FSA register number is []

Our permitted business is [advising on and arranging mortgages] [Note 22]

[Home reversion schemes are not regulated by the FSA] [Note 3]

You can check this on the FSA's Register by visiting the FSA's website www.fsa.gov.uk/register or by contacting the FSA on 0845 606 1234.

7. What to do if you have a complaint [Note 19]

If you wish to register a complaint, please contact us:

...in writing Write to [XYZ Financial Services], [Complaints Department, 123 Any Street, Some Town, ST21 7QB].

... by phone Telephone [0121 100 1234]. [Note 23]

If you cannot settle your complaint with us, you may be entitled to refer it to the Financial Ombudsman Service. [The Financial Ombudsman Service does not consider complaints about home reversion schemes]. [Note 3]

8. Are we covered by the Financial Services Compensation Scheme (FSCS)? [Note 19] [Note 24]

We are covered by the FSCS. You may be entitled to compensation from the scheme if we cannot meet our obligations. This depends on the type of business and the circumstances of the claim.

Mortgage advising and arranging is covered for 100% of the first £30,000 and 90% of the next £20,000 so the maximum compensation is £48,000. [Home reversion schemes are not covered by the Financial Services Compensation Scheme] [Note 3]

Further information about compensation scheme arrangements is available from the Financial Services Compensation Scheme.

Message from the Financial Services Authority

Think carefully about this information before deciding whether you want to go ahead.

If you are at all unsure about which lifetime mortgage or home reversion scheme is right for you, you should ask your adviser to make a recommendation.

Please remember that home reversion schemes are not regulated by the FSA.

The following notes do not form part of the IDD

Note 1 – subject to this, a *firm* may use its own house style and brand.

Note 2 - the *Financial Services Authority* has developed a common ‘key facts’ logo to be used on significant pieces of information directed to *customers*. The ‘key facts’ logo and the text “about our lifetime mortgage services” must be used and positioned as shown on the IDD. The logo may be re-sized, but it must be reasonably prominent and its proportions must not be distorted. When reproducing the logo, *firms* may use colour providing this does not diminish the prominence of the logo.

Note 3 – *firms* must insert the text relating to home reversion schemes if they advise or give personalised information on home reversion schemes in addition to *advising* or giving personalised information on *regulated lifetime mortgage contracts*.

Note 4 – insert the *firm* or *appointed representative's* name (either the name under which it is *authorised* or the name under which it trades). A corporate logo, or logos, may be included.

Note 5 – if the IDD is provided by an *appointed representative*, insert the name of the *appointed representative*. (If an individual who is employed or engaged by an *appointed representative* provides the information, the individual should not put his or her own name on the IDD.)

Note 6 - insert the head office or if more appropriate the principal place of business from where the *firm* or *appointed representative* expects to conduct business with *customers*. (An *appointed representative* must not include the name and address of the *authorised firm* instead of its own.).

Section 2: Whose products do we offer?

Note 7 – *firms* must select by ticking, for example, one box which is appropriate for the service that they expect to provide to the *customer*.

Note 8 - if the IDD is provided by an *appointed representative*, the service described must be that offered by the *appointed representative*, in accordance with *MCOB 4.3.10R*.

Note 9 – insert “can” if the *firm's* range of *regulated lifetime mortgage contracts* is determined by any contractual obligation.

Note 10 - this sentence may be omitted if the *firm* chooses to list all of the companies it offers products from instead of the text “a limited number of companies”, in the previous line, so long as the *firm* offers all of the products generally available from each company.

Note 11 – if the *firm* selects this box, it must insert the name of the company. If the *firm* does not tick this box, it must insert the words “a single company” instead. If the *firm* does not offer all of the products generally available from that company, it must insert the words “a limited range of”, as shown. If the company only has one product, the *firm* should amend the text to “We can only offer a product from [name of company].”

Note 12 – if the *firm* offers only its own products, or is part of a *firm* offering only the products sold under that part’s trading name, it may use this alternative text.

Section 4: What will you have to pay us for this service?

Note 13 – if the *firm* receives commission instead of, or in addition to, fees from the *customer*, it must insert a plain language explanation of this.

Note 14 – insert a plain language description of when any fees are payable. This description could include, for example, a cash amount, a percentage of the loan or reversion amount or the amount per hour, as appropriate. However, where a cash amount is not disclosed, one or more examples of the cash amount must be included. If the *firm* offers more than one pricing option, it may illustrate each with a separate box.

Section 5: Refund of fees

Note 15 – if, in section 4, it has been indicated that there will be ‘No fee’, section 5 may be omitted altogether, and the following sections re-numbered accordingly.

Note 16 – firms must select as many boxes as are appropriate.

Note 17 – insert a plain language description of the circumstances in which the fee is refundable or not refundable as described.

Note 18 – the *firm* may delete this line if it does not offer a partial refund in any circumstances.

Section 6: Who regulates us?

Note 19 – these sections may be omitted in accordance with *MCOB* 4.4.1R(3).

Note 20 – where the *authorised firm* trades under a different name from that under which it is *authorised*, it must include the name under which it is *authorised* and listed on the *FSA register*. It may also include its trading name if it wishes.

Note 21 - An *incoming EEA firm* will need to modify this section if it chooses to use this IDD (see *GEN* 4 Ann 1R(2)).

Note 22 - insert a plain language description of the business for which the *firm* has *permission* in relation to *regulated lifetime mortgage contracts*.

Section 7: What to do if you have a complaint

Note 23 – if different to the address in **Note 6**, give the address and telephone number that is to be used by *customers* wishing to complain.

Section 8: Are we covered by the Financial Services Compensation Scheme?

Note 24 - when an *incoming EEA firm* provides the IDD, it may modify this section as appropriate.

MCOB 8: Advising and selling

Annex 2 R

This annex belongs to *MCOB 4.4.1R* (as modified by *MCOB 8*) and *MCOB 8.4.1R*¹

[Rules and guidance for the combined IDD, for use where mortgage services are being provided at the same time as investment or insurance services, will be added here.]

¹ The rules governing the use of the combined initial disclosure document were consulted upon in CP187 *Insurance selling and administration & other miscellaneous amendments* (June 2003). The final rules will be published in 2004.

9 LIFETIME MORTGAGES: PRODUCT DISCLOSURE

9.1. Application

Who?

9.1.1 R This chapter applies to a *firm* in a category listed in column (1) of the table in *MCOB 9.1.2R* in accordance with column (2) of that table.

9.1.2 R Table

This table belongs to *MCOB 9.1.1R*

(1) Category of firm	(2) Applicable section
<i>mortgage lender</i>	<i>MCOB 9.1 – 9.7</i>
<i>mortgage administrator</i>	<i>MCOB 9.1 – 9.4</i> <i>MCOB 9.8</i>
<i>mortgage adviser</i>	<i>MCOB 9.1 – 9.4</i>
<i>mortgage arranger</i>	<i>MCOB 9.1 – 9.4</i>

What?

9.1.3 R This chapter applies in the circumstances set out in other *rules* in *MCOB*, but in relation to a *regulated lifetime mortgage contract*, in accordance with the table in *MCOB 9.1.4R*.

9.1.4 R Table

This table belongs to *MCOB 9.1.3R*

Section of <i>MCOB 9</i>	Applies in relation to a <i>regulated lifetime mortgage contract</i> as set out in the following <i>MCOB</i> rules:
<i>MCOB 9.1, MCOB 9.2</i>	all of the rules below
<i>MCOB 9.3, MCOB 9.4</i>	<i>MCOB 5.1.3R</i>
<i>MCOB 9.5</i>	<i>MCOB 6.1.3R</i>
<i>MCOB 9.6</i>	<i>MCOB 7.1.3R</i>

9.1.5 R In this chapter, references to a *regulated lifetime mortgage contract* include, where the context requires, references to arrangements

which are capable of becoming a *regulated lifetime mortgage contract*.

9.2 Purpose

9.2.1 G The purpose of the requirements in this chapter is the same as that in *MCOB 5.2*, *MCOB 6.2* and *MCOB 7.2* in respect of *regulated lifetime mortgage contracts*.

9.3 Pre-application disclosure

- 9.3.1 R
- (1) *MCOB 5.1 to MCOB 5.5* (with the modifications stated in *MCOB 9.3.2R to MCOB 9.3.12R*) apply to a *firm* where the *regulated mortgage contract* is a *regulated lifetime mortgage contract*.
 - (2) The table in *MCOB 9.3.2R* shows how the relevant *rules* and *guidance* in *MCOB 5* must be modified by replacing the cross-references with the relevant cross-references to *rules* and *guidance* in *MCOB 9.3* and *MCOB 9.4*.
 - (3) The table in *MCOB 9.3.3R* replaces certain *rules* and *guidance* in *MCOB 5* with *rules* and *guidance* from *MCOB 9.3* and *MCOB 9.4*.
 - (4) The table in *MCOB 9.3.4R* disapplies certain *rules* in *MCOB 5* for the purposes of *MCOB 9*.

9.3.2 R Table of modified cross-references to other rules.

This table belongs to *MCOB 9.3.1R*.

Subject	Rule or guidance	Reference in rule or guidance	To be read as a reference to:
Variations	<i>MCOB 5.1.3R(2)</i>	<i>MCOB 7</i>	<i>MCOB 7</i> as modified by <i>MCOB 9</i>
Part of loan not a <i>regulated lifetime mortgage contract</i>	<i>MCOB 5.1.9G</i>	<i>MCOB 5.6.6R(2)</i>	<i>MCOB 9.4.6R(2)</i>
<i>Waiver of provisions</i>	<i>MCOB 5.1.10G</i>	<i>MCOB 5.6</i>	<i>MCOB 9.4</i>

Purpose	<i>MCOB 5.2.1G</i>	<i>MCOB 5</i>	<i>MCOB 5 as modified by MCOB 9</i>
Applying for a regulated lifetime mortgage contract	<i>MCOB 5.3.2G</i>	<i>MCOB 5.6.26R and MCOB 5.6.27R</i>	<i>MCOB 9.4.26R and MCOB 9.4.27R</i>
Tied products	<i>MCOB 5.4.24G</i>	<i>MCOB 5.6</i>	<i>MCOB 9.4</i>
Tied products	<i>MCOB 5.4.24G</i>	<i>MCOB 5.6.74R</i>	<i>MCOB 9.4.73R</i>
Issue of offer document in place of illustration	<i>MCOB 5.5.3G</i>	<i>MCOB 6.4 and MCOB 6.6</i>	<i>MCOB 6.4 and MCOB 6.6 as modified by MCOB 9</i>
Customer's credit record	<i>MCOB 5.5.16R</i>	<i>MCOB 5.5.15R(4)</i>	<i>MCOB 9.3.12R(3)</i>

9.3.3 R Table of rules in *MCOB 5* replaced by rules in *MCOB 9*:

This table belongs to *MCOB 9.3.1R*

Subject	Rule(s) or guidance	Rule(s) or guidance replaced by:
Accuracy of the <i>illustration</i>	<i>MCOB 5.4.2R – MCOB 5.4.7G</i>	<i>MCOB 9.3.5R – MCOB 9.3.10G</i>
Information that is not an <i>illustration</i>	<i>MCOB 5.4.14R</i>	<i>MCOB 9.3.11R</i>
Providing an <i>illustration</i>	<i>MCOB 5.5.15R</i>	<i>MCOB 9.3.12R</i>
Content of <i>illustration</i>	<i>MCOB 5.6</i>	<i>MCOB 9.4</i>

9.3.4 R Table of rules in *MCOB 5* which do not apply to *MCOB 9*:

This table belongs to *MCOB 9.3.1R*.

Subject	Rule(s)
<i>Illustrations for repayment mortgages and interest-only mortgages</i>	<i>MCOB 5.5.13R</i>
Business loans	<i>MCOB 5.7</i>

- 9.3.5 R **An *illustration* on a particular *regulated lifetime mortgage contract* issued by, or on behalf of a *mortgage lender*, must be an accurate reflection of the costs of the *regulated lifetime mortgage contract*.**
- 9.3.6 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 15 of the *illustration*;**
- (ii) **the amounts that the *customer* must pay by regular instalment (where payments are required), or the amounts of interest charged, in Section 8 of the *illustration*; and**
- (iii) **the amount by which the regular instalment, or the estimated amount owed, would increase following a one percentage point increase in interest rates in Section 9 of the *illustration*.**
- (b) **the *APR* in Section 15 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 absolutely accurate in respect of other figures quoted in the *illustration* including fees payable to the *mortgage lender* or *mortgage intermediary* in Section 11 of the *illustration* and cash examples of *early repayment charges* in Section 13 of the *illustration*.**
- 9.3.7 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* 9.3.6R(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%.
- 9.3.8 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 lifetime mortgage contract* look more expensive than another.

- 9.3.9 G It is the responsibility of a *mortgage intermediary* to ensure compliance with *MCOB 9.3.6R*. 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 9.3.6R*, he may be able to rely on *MCOB 2.5.2R*, if this turns out not to be the case.
- 9.3.10 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, or the estimated amount of interest to be charged has changed, assuming a later date at which the *regulated lifetime mortgage contract* will start.
- 9.3.11 R Where *MCOB 5.4.13R(2)* applies:
- (1) if the *customer* initiates the accessing of quotation information on screen (for example, by using the internet or interactive television), the following warning must be displayed equally prominently on each page on screen:

“This information does not contain all of the details you need to choose a lifetime mortgage. Make sure that you read the separate key facts illustration before you make a decision.”.
 - (2) a *firm* must not provide a customised print function where the information on the screen would not be in the form of an *illustration* if the information were printed in hard copy.
- 9.3.12 R In meeting a request under *MCOB 5.5.1R(2)(c)*, the *firm* must not delay the provision of the *illustration* by requesting information other than:
- (1) the information necessary to personalise the *illustration* in accordance with *MCOB 9.4.6R*, if the *firm* does not already know it;
 - (2) where the *firm* acts in accordance with *MCOB 5.5.11R(2)*, such information as is necessary to ascertain whether or not the contract will be a *regulated lifetime mortgage contract*;
 - (3) where the interest rates, payments (if required) or any other terms and conditions to be included in the *illustration* are dependent on the *customer's* credit record, such information as is necessary to produce an *illustration*;
 - (4) where the *firm* includes a quotation for any *tied products* or compulsory insurance in the *illustration*, such information as is necessary to produce those quotations; and

- (5) where the *customer* agrees to receive a quotation for insurance in the *illustration* (other than that provided for in (4)), such information as is necessary to produce those quotations

9.4 Content of illustrations

Purpose

- 9.4.1 G *MCOB 9.4* sets out the required content of an *illustration* for a regulated lifetime mortgage contract provided to a *customer* by a *firm*.

Content, order, format etc

- 9.4.2 R An *illustration* provided to a *customer* must:

- (1) contain the material set out in *MCOB 9 Annex 1R* in the order and using the numbered section headings, sub-headings and prescribed text in *MCOB 9 Annex 1R*, except where provided for in *MCOB 9.4*;
- (2) follow the format of the template in *MCOB 9 Annex 1R*, with:
 - (a) prominent use of the key facts logo followed by the text ‘about this lifetime mortgage’ (if a *firm* resizes the logo it must ensure that the proportions remain consistent with the original design, so as not to distort it in any way);
 - (b) each section clearly separated;
 - (c) all the amounts set out in Sections 6, 8, 11, 12 and 15 in columns that make the amounts clear; and
 - (d) no section split across different pages except where it is impractical not to do so;
- (3) use font sizes and typefaces consistently throughout the *illustration* which are sufficiently legible so that the *illustration* can be read easily by a typical *customer*;
- (4) ensure that the information within each section is clearly laid out (for example, through the use of bullet points or similar devices to separate information);
- (5) include prominent headings with the numbered section headings clearly differentiated in some way from the other text in the *illustration* (for example, through the use of larger and more prominent fonts, the use of shading or colour);

- (6) replace '[name of *mortgage lender*]' with the name of the *mortgage lender* providing the *regulated lifetime mortgage contract*; a trading name used by the *mortgage lender* may be stated, as long as the name of the *mortgage lender* is also disclosed in Section 5 of the *illustration* in accordance with *MCOB 9.4.24R(1)*
- (7) describe any *early repayment charge* as an 'early repayment charge' and not use any other expression to describe such charges;
- (8) describe any *higher lending charge* as a 'higher lending charge' and not use any other expression to describe such charges; and
- (9) describe any *regulated lifetime mortgage contract* as a 'lifetime mortgage' and not use any other expression to describe such a mortgage or omit that description from the name given to any product that meets the definition.

9.4.3

G

- (1) *Firms* can obtain from the *FSA* website <http://www.fsa.gov.uk> a specimen of the 'key facts' logo. When reproducing the logo *firms* may use colour providing this does not diminish the prominence of the logo.
- (2) *MCOB 9.4.2R(3)* does not prevent the use of different fonts and typefaces for headings and risk warnings. Its purpose is to prevent particular sections of the *illustration* from being made less prominent than other sections through the inconsistent use of font sizes and typefaces.
- (3) The *illustration* can contain the *mortgage lender's* or *mortgage intermediary's* logo and other 'brand' information, so long as the requirements of *MCOB 9.4* are satisfied.
- (4) The *illustration* can contain page numbers and other references that aid understanding, record keeping and identification of a particular *illustration*, such as the date and time an *illustration* is produced or a unique reference number, provided these do not detract from the content of the *illustration*.
- (5) *Firms* are reminded of their general obligation for communications to *customers* to be clear, fair and not misleading. Sections of the *illustration* may be split across pages where it is practical to do so. When splitting sections, *firms* should split the section at an appropriate place, for example at the end of a sub-section, and not split risk warnings or tables (unless the length of the table is greater than one page).

- 9.4.4 R A *firm* must include in the *illustration* all prescribed section headings in *MCOB 9 Annex 1R*, except that:
- (1) in Section 8 (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 *regulated lifetime mortgage contract*;
 - (b) Section 8(B) (projection of roll-up of interest) is only required where all or part of the interest on the *regulated lifetime mortgage contract* is rolled-up;
 - (2) Section 16 (Using a mortgage intermediary) is required only where the *illustration* is provided to the *customer* by, or on behalf of, a *mortgage intermediary*; and
 - (3) where the *illustration* is issued in connection with a further advance in accordance with *MCOB 9.8.5R*, an additional section ‘Total borrowing’ must be inserted after Section 8, and must be numbered ‘9’, with all subsequent sections renumbered accordingly.

Content: required information

- 9.4.5 R The *illustration* provided to a *customer* must:
- (1) contain only the material specified in *MCOB 9.4* and no other material except where provided for elsewhere in *MCOB 9.4*; and
 - (2) be in a document separate from any other material that is provided to the *customer*.
- 9.4.6 R As a minimum the *illustration* must be personalised to reflect the following:
- (1) the specific *regulated lifetime mortgage contract* in which the *customer* is interested;
 - (2) the amount of the loan required by the *customer*, or for *drawdown mortgages*, the amount the *customer* wishes to draw down on a monthly (or such frequency that amounts are available) basis. Where the amount the *customer* can draw down is variable, the *firm* must agree with the *customer* an expected amount to be drawn down per year (see *MCOB 9.4.13*);

- (3) **the price or value of the property on which the *regulated lifetime mortgage contract* would be secured (estimated where necessary);**
 - (4) **such information relating to the *customer*, or the property, or both as is necessary to determine that the *customer* would qualify for the *regulated lifetime mortgage contract* in question; and**
 - (5) **the estimated term of the *regulated lifetime mortgage contract*, calculated in accordance with *MCOB 9.4.10R*.**
- 9.4.7 G A *firm* should not illustrate more than one *regulated lifetime mortgage contract* in the same *illustration*, for example by using one *illustration* to compare alternative products.
- 9.4.8 G *MCOB 9.4.6R* sets out minimum requirements. The *illustration* may be personalised to a greater degree if the *mortgage lender* or *mortgage intermediary* wishes, subject to the restrictions on the information that can be obtained from the *customer* in *MCOB 9.3.12R* when the *illustration* is provided in accordance with *MCOB 5.5.1R(2)(c)*.
- 9.4.9 G In relation to *MCOB 9.4.6R(3)*, in order for the *firm* to comply with the principle of “clear, fair and not misleading” in *MCOB 2.2.6R*, 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 lifetime 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.
- 9.4.10 R (1) **In estimating a term under *MCOB 9.4.6R(5)* a *firm* must:**
- (a) **use the following mortality table: the PA92 (male or female as appropriate) pensioners’ 1991-94 table amounts, projected forward to 2010 from the Continuous Mortality Investigation Reports 16 and 17, published by the Institute of Actuaries and the Faculty of Actuaries in 1998 and 1999 respectively; and**
 - (b) **for the purposes of the *illustration*, where the table does not result in a life expectancy expressed in whole years, the term should be rounded up to the next whole year (for example, if the result 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 set out in (1) is less than fifteen years, the *firm* should use a term of fifteen years in preparing the *illustration*.**

- 9.4.11 R Where the *illustration* is issued to two or more *customers* who intend to borrow jointly, the term estimated in accordance with *MCOB 9.4.10R* should be based on the longest life expectancy.
- 9.4.12 R If the *customer* requests an *illustration* showing a term of the *customer's* choice, that *illustration* must be issued in addition to the *illustration* showing the term calculated in accordance with *MCOB 9.4.10R*. The term chosen should be stated in Section 4 of the *illustration* 'What you have told us' (see *MCOB 9.4.21R(2)*).
- 9.4.13 R The amount referred to in *MCOB 9.4.6R(2)* is:
- (1) the amount that the *customer* has asked to borrow or draw down; or
 - (2) where the *regulated lifetime 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 *regulated lifetime mortgage contract*; or
 - (3) in cases where, on the basis of the information obtained from the *customer* before providing the *illustration*, it is clear that the *customer* would not be eligible to borrow or draw down the amount he requested, an estimate of the amount that the *customer* could borrow or draw down, based on the information obtained from the *customer*.
- 9.4.14 G *MCOB 9.4.13R(3)* does not require information to be obtained from the *customer* before providing an *illustration* in order to ascertain the amount the *customer* is eligible to borrow. Instead, its purpose is to avoid a *firm* being in a position where it would otherwise have to provide a *customer* with an *illustration* for an amount it knew the *customer* would not be eligible for, based on whatever information it had obtained from the *customer* before providing the *illustration*.
- 9.4.15 R Where the *illustration* relates to a *regulated lifetime mortgage contract* that is sub-divided into different parts with different types of interest rate or different rates of interest or different conditions, or a combination of these, the requirements in *MCOB 9.4* may be adapted to accommodate this. The adaptations made must be limited to those that are necessary.
- 9.4.16 G *MCOB 9.4.15R* applies where, for example, the *regulated lifetime mortgage contract* is divided so that a certain amount is payable on a fixed interest rate, and a certain amount on a discounted interest rate.
- Information to be included at the head of the illustration**
- 9.4.17 R The following information must be included at the head of the *illustration*:
- (1) the *customer's* name;

- (2) the date of issue of the *illustration*;
- (3) details of how long the *illustration* is valid for, and whether there is any date by which the *regulated lifetime mortgage contract* covered by the *illustration* needs to commence (for example, where a fixed interest rate is only available if the *regulated lifetime mortgage contract* commences before a certain date); and
- (4) the prescribed text at the head of the *illustration* in *MCOB 9 Annex 1R*.

Section 1: ‘About this information’

9.4.18 R Under the section heading ‘About this information’, the prescribed text in *MCOB 9 Annex 1R* under this heading must be included.

Section 2: ‘Which service are we providing you with?’

9.4.19 R (1) Unless (2) applies, under the section heading ‘Which service are we providing you with?’ the prescribed text in *MCOB 9 Annex 1R* under this heading must be included with a ‘check box’ for each statement, one of which must be marked prominently to indicate the level of service provided to the *customer*.

(2) If the level of service described in the *illustration* is provided by another *firm*, (1) may be replaced by the following:

Under the section heading ‘Which service are we providing you with?’ the following text should be presented as two options with a ‘check box’ for each option, one of which must be marked prominently to indicate the level of service provided to the *customer*:

“[name of *firm*] recommends, having assessed your needs, that you take out this lifetime mortgage.

[name of *firm*] is not recommending a particular lifetime mortgage for you. However, based on your answers to some questions, it is giving you information about this lifetime mortgage so that you can make your own choice, or find out about other ways in which you may be able to release equity from your home.”.

Section 3: ‘What is a lifetime mortgage?’

9.4.20 R Under the section heading ‘What is a lifetime mortgage?’, the prescribed text in *MCOB 9 Annex 1R* under this heading must be included.

Section 4: ‘What you have told us’

- 9.4.21 R
- (1) Under the section heading ‘What you have told us’, the *illustration* must state the information that has been obtained from the *customer* under *MCOB 9.4.6R* and *MCOB 9.3.12R* (apart from *MCOB 9.4.6R(1)* and *MCOB 9.4.6R(5)* which are provided for in Section 5 of the *illustration*), and can include brief details of any other information that has been obtained from the *customer* and used to produce the *illustration*.
 - (2) Where the *customer* requests an additional *illustration* showing a term of their choice, the term chosen by the *customer* must be stated in this section, together with a statement to the effect that the term is the *customer’s* choice.
 - (3) If the amount on which the *illustration* is based includes the amount that the *customer* wants to borrow or draw down plus charges and other payments that have been added to the loan or amount to be drawn down:
 - (a) except where (b) applies, this section must include the following text after the loan amount or amount to be drawn down from *MCOB 9.4.13R(1)*:

“plus £[insert total amount of fees and other charges added to the loan] for fees that have been added to the loan [or amount drawn down] – see Section 11 for details.”; or
 - (b) where there are other fees or charges that the *customer* must pay that have not been added to the loan this section must include the following text after the loan amount or amount to be drawn down from *MCOB 9.4.13R(1)*:

“plus £[insert total amount of fees and other charges added to the loan] for fees that have been added to the loan [or amount drawn down]. These and the additional fees that you need to pay are shown in Section 11.”.
 - (4) If the amount on which the *illustration* is based includes the amount that the *customer* wants to borrow plus insurance premiums (other than a *higher lending charge* or where the premium is repaid over a term of 12 months or less) that have been added to the loan or amount to be drawn down;
 - (a) except where (b) applies, this section must include the following text after the loan amount or amount to be drawn down from *MCOB 9.4.13R(1)* (which may

be combined with the prescribed text in (3) if applicable):

“plus £[insert amount of premium to be added to the loan] for insurance premiums that have been added to the loan [or amount drawn down] – see Section 12 for details.”; or

- (b) where there are other insurance premiums that the *customer* must pay that have not been added to the loan this section must include the following text after the loan amount or amount to be drawn down from *MCOB* 9.4.13R(1) (which may be combined with the prescribed text in (3) if applicable):

“plus £[insert amount of premium to be added to the loan] for insurance premiums that have been added to the loan [or amount drawn down]. These and any additional insurance premiums that you need to pay are shown in Section 12.”.

- (5) If the amount on which the *illustration* is based does not involve any charges or payments being added to the amount to be borrowed or amount to be drawn down, but there are charges that must be paid by the *customer*, Section 4 of the *illustration* must include the following text after the loan amount from *MCOB* 9.4.13R(1):

“No fees have been added to this amount but the fees you need to pay are shown in Section 11.”.

- (6) If the *regulated lifetime mortgage contract* on which the *illustration* is based has no charges or payments that must be paid by the *customer* (that is there are no fees to pay in Section 11), and no insurance premiums are being added to the loan, Section 4 of the *illustration* must include the following text after the loan amount from *MCOB* 9.4.13R(1):

“We do not charge any fees for this lifetime mortgage.”.

9.4.22 R At the end of Section 4 of the *illustration* a statement must be included making clear that changes to any of the information obtained from the *customer*, and where appropriate to the valuation of the property, could alter the details elsewhere in the *illustration*, and encouraging the *customer* to ask for a revised *illustration* in this event.

9.4.23 G An example of the type of statement that would satisfy *MCOB* 9.4.22R is:

“The valuation that will be carried out on the property, and changes to any of the information you have given us, could alter the information in this illustration. If this is the case please ask for a revised illustration.”

Section 5: ‘Description of this mortgage’

- 9.4.24 R** Under the section heading ‘Description of this mortgage’ the *illustration* must:
- (1)** state the name of the *mortgage lender* providing the *regulated lifetime mortgage contract* to which the *illustration* relates (a trading name used by the *mortgage lender* may also be stated in accordance with *MCOB 9.4.2R(6)*), and the name, if any, used to market the *regulated lifetime mortgage contract*;
 - (2)** include a statement describing the *regulated lifetime mortgage contract*;
 - (3)** if the *regulated lifetime mortgage contract* is linked to an *investment*, and payments required on the *regulated lifetime mortgage contract* will be deducted from the income from the *investment*, include a statement that this is the case;
 - (4)**
 - (a)** provide a description of the interest rate type and rate of interest that applies in accordance with the format described in *MCOB 9.4.26R* and *MCOB 9.4.27R*;
 - (b)** where there is more than one interest rate type or rate of interest, specify the amount of the loan to which each interest rate type and rate of interest applies;
 - (c)** unless the interest rate applies for the full life of the loan, confirm what interest rate will apply, when it will apply and for how long it will apply after any initial interest rate ends, in accordance with the format described in *MCOB 9.4.26R* and *MCOB 9.4.27R*; and
 - (d)** provide a clear explanation of the charging approach where different interest rates are applied to different items of debt (for example, for a *mortgage credit card* where a different interest rate applies to balances that are transferred from that charged on any additional borrowing);
 - (5)** include a statement regarding the term of the *regulated lifetime mortgage contract* using the following text:

“We have based this illustration on an estimated term of [insert number of years] years, but remember that the term of this lifetime mortgage is not fixed and could be longer or shorter than [insert number of years] years. If you are still living in your home at the end of [insert number of years] years, the lifetime mortgage will continue to run.”;

- (6) include a statement of the maximum amount the *customer* may borrow from the *mortgage lender* and the circumstances (if any) in which the *customer* may be able to borrow additional funds at a future date; and**
- (7) if the *customer* is obliged to buy any *tied products* under the *regulated lifetime mortgage contract* include the following information:**

- (a) details of the *tied products* required;**
- (b) the following text**

“You are obliged to take out [insert details of the *tied product(s)*] through [insert name of *mortgage lender* or if relevant, name of *mortgage intermediary*] as a condition of this lifetime mortgage. Please refer to Section 12 of this illustration for further details.”;

- (8) state very briefly any restrictions that apply to the availability of the *regulated lifetime mortgage contract* (for example, if it is only available to certain types of *customer*);**
- (9) where the interest rate, payments (if required) or terms and conditions of the *regulated lifetime mortgage contract* in the *illustration* reflect a *customer’s* adverse credit history, include the following text:**

“The terms of this lifetime mortgage reflect past or present financial difficulties.”; and

- (10) where the intention of the *regulated lifetime mortgage contract* is solely to provide the *customer* with a *mortgage credit card* (rather than the *mortgage credit card* being an additional feature of a *regulated lifetime mortgage contract*) include the warning about the loss of statutory rights from *MCOB 9.4.102R(2)(a)* or *(b)* in Section 5 of the *illustration* rather than Section 14.**

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 *regulated lifetime mortgage contract*):

- (1) For a *roll-up of interest mortgage*:**

“You do not have to make any repayments during the life of this lifetime mortgage. The loan, all of the interest and charges due to [name of *mortgage lender*] will be repaid from the sale of your home. This will happen on your death [or the death of the last borrower] or if you move home (either into another property or into sheltered accommodation or residential care). Any money left over would be paid to you or your beneficiaries.”.

[If only a part of the interest is rolled up the statement should specify the amount or proportion of the loan on which the interest will be rolled-up].

(2) For a *drawdown mortgage*:

“This lifetime mortgage provides you with a cash sum every month [or such other frequency as is applicable, including ‘on request’] until it is repaid. [Include if applicable: You will also receive a lump sum payment at the start of the lifetime mortgage].”.

(3) For an *interest-only mortgage*:

“This is an interest only lifetime mortgage, which means that you have to make [insert frequency of payments] payments to [name of *mortgage lender*] until the lifetime mortgage is repaid. The amount you owe will stay the same over the life of the mortgage unless fees or charges have to be added. The mortgage will be repaid from the sale of your home on your death [or the death of the last borrower] or if you move home (either into another property or into sheltered accommodation or residential care). Any money left over would be paid to you or your beneficiaries.”.

9.4.26 R MCOB 9.4.27R sets out some examples of descriptions of interest rate types and rates of interest that must be used in the *illustration* to comply with MCOB 9.4.24R(4). If an interest rate is not described in MCOB 9.4.27R, it must be presented in the *illustration* in a way that is consistent with the descriptions in MCOB 9.4.27R.

9.4.27 R Description of interest rate types and rates of interest.

This table belongs to MCOB 9.4.26R:

Description of the interest rate	Amount payable in each instalment (if applicable)
Lender's base mortgage rate – must be described as the [Lender]'s standard variable rate, currently X% [where applicable insert the date at which the interest rate ends or period for which the interest rate applies].	Amount based on X%.
Fixed rate – must be described as fixed rate of X% [where applicable insert the date at which the interest rate ends or the period for which the interest rate applies].	Amount based on the fixed rate of X%.
Discounted rate – must be described as a variable rate, currently X% with a discount of Y% [where applicable insert the date at which the discount ends or the period for which the discount applies] giving a current rate payable of Z%.	Amount based on Z%.
Capped rate – must be described as a variable rate, currently X% which will not go above a ceiling of Y% [where applicable insert the date at which the capped interest rate ends or the period for which the capped interest rate applies].	Amount based on the current interest rate payable (X%).
Capped and collared – must be described as a variable rate, currently X% which will not go below a floor of Y% or above a ceiling of Z% [where applicable insert the date at which the capped and collared interest rate ends or the period for which the capped and collared interest rate applies].	Amount based on the current interest rate payable (X%).
Tracker rate – must be described as a variable rate which is [X% above/X% below/the same as] [insert interest rate tracked, currently Z%] [where applicable insert the date at which the interest rate ends or the period for which the interest rate applies] to give a current rate payable of Y%. Details should also be provided of how soon after an interest rate change the mortgage interest rate is adjusted.	Amount based on Y%.
Deferred rate – must be described as a variable rate, currently X% where Y% is not paid now but is added to your mortgage [where applicable insert the date at which the deferred interest rate ends or the period for which the deferred interest rate applies] to give a current rate payable of Z%.	Amount based on Z%.
Stepped rate where different interest rates apply over different time periods (for example, fixed interest rate in year 1 changes in year 2). Each element should be dealt with individually as above.	Amount for each of the 'steps'.

<p>Combinations of the above must be treated in the same way as the descriptions above, (for example, if a discounted interest rate has a ‘floor’ then it must be described as such).</p>	<p>Follow the above treatment depending on the combination.</p>
---	---

- 9.4.28 R Where the loan under the *regulated lifetime mortgage contract* is divided into more than one part (for example where part of the loan is a fixed interest rate and part of the loan is a discounted variable interest rate) and the *firm* displays this in a tabular format in the *illustration*:
- (1) the following text must be used to introduce the table “As this lifetime mortgage is made up of more than one part, these parts are summarised below:”;
 - (2) each part must be numbered for ease of reference in the *illustration*;
 - (3) the ‘initial rate payable’ must be displayed separately from the interest rate description;
 - (4) the loan amounts must be totalled; and
 - (5) immediately following the table, a statement of what interest rates will apply to each part, (and when they will apply) after any initial interest rate ends in accordance with *MCOB 9.4.24R(4)(c)*.
- 9.4.29 R Further information about the *regulated lifetime mortgage contract* may be included in Section 5 of the *illustration* as long as it does not significantly:
- (1) duplicate information contained elsewhere in the *illustration*; and
 - (2) extend the length of this section.
- 9.4.30 G An example of further information that may be included in accordance with *MCOB 9.4.27R* might be that an ‘approval in principle’ has been granted subject to valuation and satisfactory credit reference.
- Section 6: ‘Benefits’**
- 9.4.31 R Under the section heading ‘Benefits’, the *illustration* must include:
- (1) a description of the monetary amount(s), and in a box aligned to the right of the document, the monetary amount(s) that the *customer* will receive as a lump sum and/or as a monthly [or such other frequency as is applicable] payment;

- (2) where the *regulated lifetime mortgage contract* is linked to an *investment*, and the payments required on the *regulated lifetime mortgage contract* will be deducted from the income from the *investment*, the monetary amount of the net income the *customer* will receive. This must be shown in a box immediately underneath that required in (1) and containing the subheading ‘Your net income’; and
- (3) if applicable, statements of any other benefits, incentives and guarantees that apply to the *regulated lifetime mortgage contract*. This must be shown under the subheading ‘Other benefits and incentives’.

9.4.32 G Examples of text that would satisfy MCOB 9.4.31R(1), depending on the nature of the *regulated lifetime mortgage contract*, are:

- (1) “This lifetime mortgage will provide a lump sum of £[x].”;
- (2) “The amount you are borrowing will automatically be used to purchase a [name of linked *investment* product] from [name of provider]. The amount is £[x].”; and
- (3) “You will receive a monthly [or such other frequency as is applicable] payment from the start of your lifetime mortgage. This will be £[state amount].”.

Section 7: ‘Risks – important things you must consider’

9.4.33 R The *illustration* must include under the heading ‘Risks – important things you must consider’ statements and warnings on the following:

- (1) a brief statement of the specific circumstances in which the *mortgage lender* is able to *repossess* the property;
- (2) a statement of how the *mortgage lender* will treat any negative equity arising during the life of the *regulated lifetime mortgage contract* and at the time the amount borrowed under the *regulated lifetime mortgage contract* is due to be repaid in full;
- (3) a statement of the effect of the *customer* wanting or needing to move home (either into another property or into sheltered accommodation or long term care or residential care), covering the circumstances in which the *regulated lifetime mortgage contract* is portable, and whether *early repayment charges* are payable (the *illustration* is not required to include under this heading the exact amount of any *early repayment charges*);
- (4) a statement of the effect on the *regulated lifetime mortgage contract* of another party moving into the property (for

example on marriage or where a family member acts as a carer);

- (5) a brief statement of the *mortgage lender's* requirements for repair and maintenance of the property, including the *mortgage lender's* right (if any) to enter the property to effect essential repairs, and the circumstances in which this may occur;
- (6) a warning that taking out this *regulated lifetime mortgage contract* may affect the *customer's* tax and welfare benefits position, that tax and welfare benefits can change and that the *customer* should consider seeking further information from the Inland Revenue, Benefits Agency or another source of advice such as a Citizens' Advice Bureau;
- (7) a brief statement as to whether the *customer* can secure borrowing from any other source on the property in the future (and if applicable a warning that an increasing debt may mean that it may not be possible to borrow more in the future); and
- (8) a statement included prominently at the end of Section 7: 'Risks – important things you must consider' using the following specified text:

“Check that this mortgage will meet your needs if you want your family or others to inherit your home. If you are in doubt, seek independent legal and financial advice.”.

9.4.34 G For guidance on prominence see *MCOB 2.2.9G*.

9.4.35 R Under the heading 'Risks – important things you must consider' the *illustration* must also include the following if they apply:

- (1) for *drawdown mortgages* where there is a monthly (or such other frequency as may apply) cash sum payable, a statement that inflation can erode the value of the cash sum over time;
- (2) where:
 - (a) the *regulated lifetime mortgage contract* is linked to an *investment*; and
 - (b) the payments required on the *regulated lifetime mortgage contract* will be deducted from the income from the *investment*; and
 - (c) the *customer* will receive a fixed net income;

a statement that inflation can erode the value of the cash sum over time;

- (3) for *drawdown mortgages*, details of any circumstances where the *mortgage lender* may alter or discontinue payments to the *customer* without their prior consent;
- (4) for all *regulated lifetime mortgage contracts*, a statement or warning with regard to any material issue not covered elsewhere in *MCOB 9.4.33R* and *MCOB 9.4.35R*.

Section 8: '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 *regulated lifetime mortgage contract* in respect of all or part of the interest, or part of the capital, charged on the *regulated lifetime mortgage contract*. 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.
- 9.4.37 R The heading for Section 8 of the *illustration* and the heading of the column on the right-hand side of this section must state the frequency with which payments must be made by the *customer*. (For example, if payments are to be made on a monthly basis, the heading for this section must be 'What you will need to pay each month' and the column must be headed 'Monthly payments'.)
- 9.4.38 R All the payments in Section 8 of the *illustration* must be calculated based on the frequency used for the purposes of the heading in *MCOB 9.4.37R* and must be shown in the column on the right-hand side of this section.
- 9.4.39 R Section 8 of the *illustration* must contain the following information:
- (1) the loan amount on which the *illustration* is based. This figure should include all fees, charges and insurance premiums that have been added to the loan in accordance with *MCOB 9.4.21R(3)* and *MCOB 9.4.21R(4)*, and the following text must follow the loan amount:

"which includes the [fees] [and] [insurance premiums] that are shown in [Section 11] [and] [Section 12] as being added to your lifetime mortgage.";
 - (2) the assumed start date that has been used in the *illustration* to estimate the number of payments to be charged at given interest rates must be stated using the following text:

“This illustration assumes that the lifetime mortgage will start on [insert assumed start date].”;

- (3) except where *MCOB 9.4.47R* applies, for each of the interest rates charged on the *regulated lifetime mortgage contract*:
- (a) the number of payments at that interest rate;
 - (b) whether the interest rate is fixed or variable;
 - (c) the interest rate charged on the *regulated lifetime mortgage contract* at the time the *illustration* is issued; and
 - (d) the amount that the *customer* must pay in each instalment at that interest rate, which must be recorded in the right-hand column of this section (see *MCOB 9.4.38R*);
- (4) where the payment due to the *mortgage lender* is to be deducted from the income provided by a linked *investment product* (such as an annuity) such that the *customer* receives the net income, a clear statement to this effect.

- 9.4.40 G If appropriate, the two statements required by *MCOB 9.4.39R(1)* and *MCOB 9.4.39R(2)* may be merged, for example “These payments are based on a loan amount of £x and assume that the lifetime mortgage will start on [dd/mm/yy].”.
- 9.4.41 G *MCOB 9.4.39R(3)* applies to each interest rate charged on the *regulated lifetime mortgage contract* covered by the *illustration*. This means that it applies to different interest rates charged at different times, for example, where the interest rate changes at the end of any initial discounted, fixed or other special interest rate period.
- 9.4.42 G The *firm* may determine the assumed start date in *MCOB 9.4.39R(2)*.
- 9.4.43 R **The following information must be included in the description of the interest rate required by *MCOB 9.4.39R(3)(c)* except where *MCOB 9.4.47R* applies:**
- (1) where the interest rate can change, the word “currently” must be used to illustrate the current interest rate payable; and
 - (2) where the interest rate changes after a given period the words “followed by” should be used to indicate this.
- 9.4.44 G An example of how the information required by *MCOB 9.4.39R(3)* and *MCOB 9.4.43R* may be presented when there is an example term of fifteen years, and an initial fixed interest rate for a period of 22 months

followed by the *mortgage lender's* standard variable interest rate for a period of 158 months, is as follows:

“22 payments at a fixed rate of [...]%

followed by

158 payments at a variable rate, currently [...]%.”.

9.4.45 R The information required by *MCOB 9.4.39R(3)(d)* must exclude the cost of any products which may be sold in conjunction with the *regulated lifetime mortgage contract* (whether *tied products* or not) unless the cost has been added to the *regulated lifetime mortgage contract*.

9.4.46 R If, because of the assumed start date of the *regulated lifetime mortgage contract*, the initial payment differs from the subsequent payments, the initial payment must be shown in this section in accordance with *MCOB 9.4.39R(3)(d)*.

Multi-part mortgages

9.4.47 R Where the loan under the *regulated lifetime mortgage contract* is divided into more than one part (for example, where part of the loan is on a fixed interest rate and part on a discounted variable interest rate) and the *firm* displays the initial cost of all parts, and the total cost, in a tabular format in the *illustration*, *MCOB 9.4.39R(3)* and *MCOB 9.4.43R* do not apply; instead:

- (1) each part must be numbered for ease of reference in the *illustration*;
- (2) the loan amounts must be totalled;
- (3) the number and frequency of each payment must be stated;
- (4) the ‘initial interest rate payable’ for each part must be displayed;
- (5) whether the interest rate payable is fixed or variable for each part must be stated; and
- (6) the regular payment for each part must be stated and the total payment for all parts highlighted (excluding the information listed in *MCOB 9.4.45R*).

9.4.48 R Unless all of the interest rates described in *MCOB 9.4.47R(4)* apply for the life of the loan part to which they apply, then an additional sub section titled ‘What you will owe in future’ must be included to indicate the future stepped payments. This section must:

- (1) state when a change in payment will occur;

- (2) state the reason for the change in payment; and
- (3) confirm that the payment illustrated assumes that interest rates will not change.

Section 8 ‘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 *regulated lifetime mortgage contract* is 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 *regulated lifetime mortgage contract* estimated in accordance with *MCOB 9.4.10R* (and if required, *MCOB 9.4.12R*).
- 9.4.50 R **An explanation of the table required in accordance with *MCOB 9.4.51R* must be shown in a box immediately under the heading using the following text:**
- “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 using the current interest rate(s) of [insert interest rate(s)]. 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 estimated in accordance with *MCOB 9.4.10R* or *MCOB 9.4.12R*] years, and if it runs for longer, the amount you owe will carry on increasing.”.**
- 9.4.51 R The table showing the projection in the section headed ‘Projection of roll-up of interest’ should show annual details in columns under the following headings:
- (1) ‘Year’: this should list the years as 1,2,3...etc. The start date for year one must be an assumed date of completion of the *regulated lifetime mortgage contract*. The table must show each year of the term estimated in accordance with *MCOB 9.4.10R* (or if required, *MCOB 9.4.12R*).
 - (2) ‘Balance at start of year’: this must show the estimated amount outstanding on the *regulated lifetime mortgage contract* at the beginning of each year. For year one this balance would include any lump sum advanced on completion.
 - (3) (where the *regulated lifetime mortgage contract* is a *drawdown mortgage*) ‘Amount paid to you during the year’: this must include all amounts to be drawn down during the

year in question. Where the amount the *customer* can draw down is variable, the *mortgage lender* must agree with the *customer* an expected amount to be drawn down per year.

- (4) ‘Interest charged at [insert percentage(s)] per year’: this must be the interest charge for the year in question, calculated on the balance at the start of the year plus the amount drawn down during the year (if applicable). The percentage(s) used must be as follows:
- (a) for a fixed interest rate that applies throughout the term, the fixed interest rate available at the date the *illustration* is issued;
 - (b) for a variable interest rate, the interest rate that is available at the time the *illustration* is issued; and
 - (c) for a capped interest rate, the actual interest rate that is available at the time the *illustration* is issued, where this is lower than the interest rate at which the cap is set.

Where more than one interest rate applies (e.g. fixed for part of the term, followed by variable), the *mortgage lender* must use the rates that are available at the time the *illustration* is issued.

- (5) ‘Fees charged during the year’: this must include all fees that can be added to the loan during the life of the *regulated lifetime mortgage contract*. In year one this will include any fees due to the *mortgage lender* unless the *customer* has confirmed that he wishes to pay them separately.

The fees for the final year shown must include any fees required on repayment in full of the *regulated lifetime mortgage contract*.

- (6) ‘What you owe at the end of the year’: this is the total of:
- (a) the balance at start of the year;
 - (b) total drawn down (if applicable);
 - (c) interest charged for the year; and
 - (d) fees for the year.

The balance at the end of the final year of the term (estimated in accordance with *MCOB 9.4.10R* (or if required, *MCOB 9.4.12R*)) must therefore be the estimated amount required to repay in full the *regulated lifetime mortgage contract* at the end of that year.

9.4.52 G The firm may determine the assumed date of completion in MCOB 9.4.51R(1).

Section 9: ‘Will the interest rate change?’

9.4.53 R Where the *customer* is required to make payments to the *mortgage lender* on the *regulated lifetime mortgage contract*, the *illustration* must include the following under the section heading ‘Will the interest rate change?’:

- (1) if the interest rate is fixed throughout the life of the *regulated lifetime mortgage contract*, an explanation that the payments will not vary because the interest rate is fixed;
- (2) if the interest rate is fixed for part of the life of the *regulated lifetime mortgage contract*, an explanation of when or how increases in the interest rate charged on the *regulated lifetime mortgage contract* affect the *customer’s* payments;
- (3) if the interest rate cannot go above a certain level or below a certain level, or both, and this applies throughout the life of the *regulated mortgage lifetime contract*, an explanation that this is the case;
- (4) if the interest rate cannot go above a certain level for part of the life of the *regulated lifetime mortgage contract*, an explanation that this is the case and of when or how increases in the interest rate charged on the *regulated lifetime mortgage contract* affect the *customer’s* payments;
- (5) if (3) or (4) apply the maximum or minimum interest rate, or both, and the payments at each of these interest rates; and
- (6) if the *regulated lifetime mortgage contract* is made up of a number of different parts including different types of interest rate and different rates of interest, an explanation of when or how increases in the interest rate charged on the *regulated lifetime mortgage contract* affect the *customer’s* payments for each part (or combination of parts).

9.4.54 R (1) Except where (3) applies, where the *customer* is required to make payments to the *mortgage lender* on the *regulated lifetime mortgage contract*, and the *customer’s* payments can vary with changes in interest rates at any time during the life of the *regulated lifetime mortgage contract*, Section 9: ‘Will the interest rate change?’ must also contain the following text:

“The [frequency of payments from *MCOB* 9.4.37R] payments shown in this illustration could be considerably

different if interest rates change. For example, for one percentage point increase in [describe the interest rate that applies], your [frequency of payments] payment will increase by around £[insert amount by which payment will increase].”.

- (2) If *MCOB 9.4.53R(6)* applies the following additional text must be included after the text in (1), for each part (or combination of parts), where the amounts by which the *customer’s* payments would increase are different:

“After the [describe the type of interest rate that applies, the part (or parts) to which it applies and date or period for which it applies] then for one percentage point increase in [describe the interest rate that applies], your [insert frequency of payments] payment will increase by around £[insert amount by which payment will increase].”.

- (3) Paragraph (1) does not apply where the difference between the interest rate included in the *illustration* in accordance with *MCOB 9.4.39R* and the maximum interest rate that can be charged on the *regulated lifetime mortgage contract* is less than one percentage point.

9.4.55 R The amount by which the *customer’s* payments would increase in accordance with *MCOB 9.4.54R(1)* must be calculated as follows:

- (1) the firm must use the total amount borrowed, or assume that all payments due on the *regulated lifetime mortgage contract* have actually been paid, all additional fees and payments due have been paid, and no underpayments or overpayments have been made; and
- (2) the interest rate from which the increase is calculated must be the variable interest rate charged on the *regulated lifetime mortgage contract* at the date that the *illustration* is issued (that is, the variable interest rate quoted in Section 5 of the *illustration*); where the variable interest rate changes after a set period or on a set date it must be based on the initial variable interest rate charged on the *regulated lifetime mortgage contract* at the date the *illustration* is issued (for example, if the initial interest rate is discounted, it must be based on the discounted rate).

9.4.56 G Although the effect of a one percentage point increase in interest rates on the *customer’s* payments is not completely linear, the purpose of *MCOB 9.4.54R(1)* and (2) is to show the approximate effect of such an increase.

9.4.57 R Where the *customer* is not required to make payments to the *mortgage lender* on the *regulated lifetime mortgage contract*, and

therefore all or part of the interest is rolled up, the following information must be included under the section heading ‘Will the interest rate change?’:

- (1) if the interest rate is fixed throughout the life of the *regulated lifetime mortgage contract*, an explanation that the estimated debt shown in accordance with *MCOB 9.4.51R(6)* will not vary because the interest rate is fixed;
- (2) if the interest rate is fixed for part of the life of the *regulated lifetime mortgage contract*, an explanation of when or how increases in the interest rate charged on the *regulated lifetime mortgage contract* affect the estimated debt shown in accordance with *MCOB 9.4.51R(6)*;
- (3) if the interest rate cannot go above a certain level or below a certain level, or both, and this applies throughout the life of the *regulated mortgage lifetime contract*, an explanation that this is the case; and
- (4) if the interest rate cannot go above a certain level for part of the life of the *regulated lifetime mortgage contract*, an explanation of when or how increases in the interest rate charged on the *regulated lifetime mortgage contract* affect the estimated debt shown in accordance with *MCOB 9.4.51R(6)*.

9.4.58 **R** Where the *customer* is not required to make payments to the *mortgage lender* on the *regulated lifetime mortgage contract*, and therefore all or part of the interest is rolled up, Section 9: ‘Will the interest rate change?’ must also contain (if applicable):

- (1) if the interest rate is variable, the following text:

“If the interest rate increases, the amount you owe will also increase. If the interest rate was [one percentage point higher than shown *MCOB 9.4.51R(4)(b)*] throughout the example term of [insert number of years – see *MCOB 9.4.10R* or *MCOB 9.4.12R*] years, the amount you would owe us at the end of that time would be: [insert amount].”;
or
- (2) if the interest rate will become variable at the end of a fixed or capped rate period, the following text:

“If the interest rate increases after the [insert as applicable: fixed rate period or capped rate period] ends, the amount you owe will also increase. If the interest rate was [one percentage point higher than shown in *MCOB 9.4.51R(4)(b)* above] throughout the remainder of the example term of [insert number of years – see *MCOB 9.4.10R* or *MCOB*

9.4.12R] years, the amount you would owe us at the end of that time would be: [insert amount].”; or

- (3) if a capped rate applies throughout the life of the *regulated lifetime mortgage contract* and the interest rate at the date of issue of the *illustration* is lower than the capped rate, the following text:

“If the interest rate increases, the amount you owe will also increase. The interest rate on this lifetime mortgage cannot be higher than [rate at which interest is capped] If the interest rate was [rate at which interest is capped] throughout the example term of [insert number of years – see *MCOB 9.4.10R* and *MCOB 9.4.12R*] years, the amount you would owe us at the end of that time would be: [insert amount].”.

Risk Warning

- 9.4.59 R Where *MCOB 9.4.54R(1)* applies, the following words must also be prominently displayed at the end of the sub-section ‘Will the interest rate change?’

“Rates may increase by much more than this so make sure you can afford the [insert frequency of payments from *MCOB 9.4.37R*] payment.”.

- 9.4.60 R Where *MCOB 9.4.58R(1)* or (2) applies, the following words must also be prominently displayed at the end of the sub-section ‘Will the interest rate change?’

“Your debt may increase significantly.”

- 9.4.61 G For guidance on prominence see *MCOB 2.2.9G*.

Section 10: ‘How the value of your home could change’

- 9.4.62 R Where the *customer* is required to make payments to the *mortgage lender* on the *regulated lifetime mortgage contract* in respect of the interest payable, and therefore the amount outstanding on the *regulated lifetime mortgage contract* will broadly remain unchanged, Section 10: ‘How the value of your home could change’ must contain the following text:

“The amount you owe will usually stay the same over the life of the mortgage so the amount due to [name of *mortgage lender*] when the mortgage is repaid will be [amount of loan], unless charges have to be added.”.

- 9.4.63 R Where the *customer* is not required to make payments to the *mortgage lender* on the *regulated lifetime mortgage contract*, 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 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].”.

9.4.64 R Section 10: 'How the value of your home could change' must contain the following text in addition to the text in accordance with *MCOB 9.4.62R* or *MCOB 9.4.63R*:

“Based on the estimated value of your home now of [insert amount from *MCOB 9.4.6R(3)*] this example shows what the value of your home would be after [insert term from *MCOB 9.4.10R*, or *MCOB 9.4.12R*] years if the value went up by 1% each year or went down by 1% each year. Remember also that the mortgage may run for more or less than [insert term from *MCOB 9.4.10R*, or *MCOB 9.4.12R*] years. This is an example only and gives no guide to how much the value of your home will actually change.

If your home went up in value by 1% each year – it would be worth [insert amount] after [insert term from *MCOB 9.4.10R*, or *MCOB 9.4.12R*] years.

If your home went down in value by 1% each year - it would be worth [insert amount] after [insert term from *MCOB 9.4.10R*, or *MCOB 9.4.12R*] years.”.

Section 11 ‘What fees must you pay?’

9.4.65 R Under the section heading ‘What fees must you pay?’ the *illustration* must:

- (1) itemise all the fees that are included in the calculation of the *APR* in accordance with *MCOB 10* (Annual Percentage Rate), excluding charges for any compulsory mortgage payment protection insurance; and
- (2) include a statement at the end of the section using the following text:

“You may have to pay other taxes or costs in addition to any fees shown here.”.

9.4.66 G An example of a fee that would be included in Section 11 would be an administrative charge to redeem the *regulated lifetime mortgage contract*. An example of a fee that would not be included would be a fee payable by the *customer* to insure their property elsewhere (however this would need to be stated in the separate ‘Insurance’ section as required by *MCOB 9.4.72R*). Where fees are payable only on early repayment of the *regulated lifetime mortgage contract*, they

should not be stated here (however these fees would need to be stated in Section 13 of the *illustration* ‘What happens if you do not want this mortgage any more’, as required by *MCOB* 9.4.83R(1)(c)).

9.4.67 R The fees included in this section in accordance with *MCOB* 9.4.65R must be itemised under the relevant sub-headings as follows:

- (1) the fees that are payable by the *customer* to the *mortgage lender* must be itemised under the sub-heading ‘Fees payable to [name of *mortgage lender*]’;
- (2) the remaining fees must be itemised under the sub-heading: ‘Other fees’; and
- (3)
 - (a) if there are no fees to be itemised in accordance with (1), the sub-heading must be retained and a statement must be included that no fees apply;
 - (b) if there are no fees to be itemised in accordance with (2), the sub-heading must be retained and only the text in *MCOB* 9.4.65R(2) applies.

9.4.68 R The following information must be provided for each fee included in this section of the *illustration* in accordance with *MCOB* 9.4.65R(1):

- (1) a description of the fee;
- (2) the amount payable by the *customer* recorded in a column headed ‘Fee amount’ on the right-hand side of this section;
- (3) for fees included under the sub-heading ‘Other fees’, to whom the fee is payable;
- (4) when the fee is payable;
- (5) whether or not the fee is refundable, and if so, the extent to which it is refundable;
- (6) which fees (if any) are estimated in accordance with *MCOB* 9.4.114R(2) and based on representative information; and
- (7) if any fee is payable after the start of the *regulated lifetime mortgage contract* and subject to change in the future, for example a fee payable on final repayment of the *regulated lifetime mortgage contract*, the amount of that fee, along with a statement that this is the ‘current fee’.

9.4.69 R (1) If a *higher lending charge* is payable by the *customer*, the following text must be used to describe such a charge for the purposes of *MCOB* 9.4.68R:

“A higher lending charge is payable because you are borrowing [insert the ratio of the mortgage amount (from *MCOB 9.4.13R*) to the property’s price or value (from *MCOB 9.4.6R(3)*)] of the property’s [estimated] [price/value].”

- (2) If the *customer* has asked for any fees to be added to the loan amount, this should be stated alongside each fee.
- (3) If the *customer* has the option of adding to the loan amount any of the fees included in this section, the following text must be included:

“If you wish you can add [this/these/the {type of fee}] fee(s) to the lifetime mortgage. This will increase the amount you owe to [insert amount of the lifetime mortgage with the fee(s) included] and will increase the amount you owe shown in Section 8. If you want to do this, you should ask for another illustration that shows the effect of this on the amount you owe”.

- (4) Any fees that are estimated based on representative information in accordance with *MCOB 9.4.114R(2)* must include an appropriate explanation of what the fee represents. For example, if this section includes an estimated fee for the legal work that the *customer* might be charged by his conveyancer for carrying out work on behalf of the *mortgage lender*, the *illustration* must explain that the fee is estimated, and that it only covers part of the costs of legal work that the *customer* might need to pay.

9.4.70 G ‘Other fees’ will include any fee charged by a *mortgage intermediary*, or another third party, for *advising on* or *arranging a regulated lifetime mortgage contract*, but not commission or *procurement fees* (which are dealt with in Section 16 of the *illustration*).

9.4.71 R A *mortgage lender* must provide a *tariff of charges* to the *customer*, if the *customer* so requests.

Section 12: ‘Insurance’

- 9.4.72 R
- (1) Under the section heading ‘Insurance’ the *illustration* must include details of:
 - (a) insurance which is a *tied product*; and
 - (b) insurance which is required as a condition of the *regulated lifetime mortgage contract* which is not a *tied product*.
 - (2) Under this section heading a *firm* may also provide details of insurance which is optional for the *customer* to take out.

- (3) It must be clear to the *customer* which products he is required to purchase under which circumstances (for example, where both a *tied product* and a *mortgage intermediary* are involved, whether the policy must be purchased from the *mortgage lender* or the *mortgage intermediary*).
- 9.4.73 R Under the sub-heading ‘Insurance you must take out through [insert name of *mortgage lender* or where relevant the name of the *mortgage intermediary*, or both]’ the following information must be included if the *regulated lifetime mortgage contract* requires the *customer* to take out insurance that is a *tied product* either through the *mortgage lender* or where relevant the *mortgage intermediary*:
- (1) details of which insurance is a *tied product*;
 - (2) for how long the *customer* is obliged to purchase the insurance;
 - (3) an accurate quotation or a reasonable estimate of any payments the *customer* needs to make for the insurance;
 - (4) where a quotation is provided for insurance in accordance with (3) on the basis of an estimated sum insured, because the actual required sum insured is unknown, the fact that it is estimated should be stated along with confirmation of the level of cover that has been assumed;
 - (5) details of when the *customer’s* payments for such insurance change, for example, if premiums are reviewed annually; and
 - (6) where a quotation is not provided in accordance with (3), a statement of when and how a quotation will be provided (for example, separately and as soon as possible).
- 9.4.74 G *Firms* are reminded that MCOB 5.4.23R requires a *firm* to provide a *customer* with an accurate quotation for any *tied products*. Where the level of cover the *firm* requires the *customer* to take up is known at the outset, then the quotation should reflect that level of cover.
- 9.4.75 R If the *regulated lifetime mortgage contract* does not require the *customer* to take out insurance as a *tied product*, the sub-heading ‘Insurance you must take out through [insert name of *mortgage lender* and where relevant the name of the *mortgage intermediary*]’ must be retained and a statement must be provided under this heading that the *customer* is not obliged to take out any insurance through the *mortgage lender* or, where relevant, the *mortgage intermediary*.

- 9.4.76 R The following information must be included under the sub-heading ‘Insurance you must take out as a condition of this mortgage but that you do not have to take out through [insert name of *mortgage lender* or where relevant the name of the *mortgage intermediary*, or both]’:
- (1) if the *regulated lifetime mortgage contract* requires the *customer* to take out an insurance policy (other than that which is a *tied product* which the *customer* is obliged to purchase through the *mortgage lender* or where relevant the *mortgage intermediary*), a brief statement of the type of insurance the *firm* requires; a quotation for such insurance may be included in the *illustration*, estimated where necessary;
 - (2) if the *mortgage lender* or the *mortgage intermediary* makes a charge in cases where the *customer* does not arrange insurance that is a condition of the mortgage through the *mortgage lender* or the *mortgage intermediary*, this must be stated, together with the amount of the charge and the frequency with which this charge is payable; and
 - (3) if no insurance policies are required (other than that which is a *tied product*), the sub-heading ‘Insurance you must take out as a condition of this mortgage that you do not have to take out through [insert name of *mortgage lender* and, where relevant the *mortgage intermediary*]’ must be retained in the *illustration* and a statement must be provided under this heading that no such insurance is required.
- 9.4.77 G Under the sub-heading ‘Insurance you must take out as a condition of this mortgage that you do not have to take out through [insert name of *mortgage lender* or where relevant the name of the *mortgage intermediary*, or both]’, the *illustration* should not include any insurance policy that may be taken out by a *mortgage lender* itself to protect its own interests rather than the *customer’s* interests, for example, because of the ratio of the loan amount to the property value.
- 9.4.78 G If the cost of any insurance that the *mortgage lender* might take out to protect its own interests because of the ratio of the loan to the property value is passed on to the *customer*, it will be shown elsewhere in the *illustration*, for example as a *higher lending charge* or in the interest rate charged.
- 9.4.79 R A *firm* may include in the *illustration*, under the sub-heading ‘Optional insurance’, quotations (estimated where necessary) for any insurance products (other than the insurance products covered elsewhere in the *illustration* in accordance with *MCOB 9.4.72R* and *9.4.76R*) that the *firm* issuing the *illustration* wishes to sell to the *customer*.

- 9.4.80 R If no quotations are included in the *illustration* in accordance with *MCOB 9.4.79R*, the sub-heading ‘Optional insurance’ must not be included in the *illustration*.
- 9.4.81 R (1) If any quotations for insurance are included in the *illustration* in accordance with *MCOB 9.4.73R(3)*, *MCOB 9.4.76R(1)* or *MCOB 9.4.79R*, the *illustration*:
- (a) must include a brief description only of the type of insurance (full details of the insurance cover may however be provided separately); and
 - (b)
 - (i) must include the total price to be paid by the *customer* in a column on the right hand side of the *illustration* under the heading ‘[insert frequency of payments quoted] payments’; and
 - (ii) may refer the *customer* to the individual insurance product disclosure documentation.
- (2) If the *customer* has asked to add any insurance premiums to the amount borrowed in accordance with *MCOB 9.4.21R(4)*:
- (a) the insurance premium(s) must be included in Section 4; and
 - (b) the following text must be used in Section 12:

“The annual insurance premium will be added to your lifetime mortgage account and increase the amount you owe. You can pay this premium in full by [insert details of the period of time that the customer will have to pay the premium in full before interest is charged on the insurance premium e.g. “by the end of the month in which the lifetime mortgage starts”] at no extra cost, otherwise interest will be charged at [insert details of the applicable interest rate e.g. ‘the same rate as your lifetime mortgage’ or ‘the standard variable rate which is currently x%’].”.
- 9.4.82 G The terms on which an insurance premium has been calculated should be presented to the *customer* in the format determined by the relevant regulatory requirements.
- Section 13: ‘What happens if you do not want this mortgage any more?’**

R Under the heading ‘What happens if you do not want this mortgage any more?’, the *illustration* must include the following information on the *regulated lifetime mortgage contract*:

- (1) under the sub-heading ‘Early repayment charges’:
 - (a) an explanation of whether *early repayment charges* are payable;
 - (b) an explanation of when *early repayment charges* are payable;
 - (c) an explanation of any other fees that are payable if the *regulated lifetime mortgage contract* is repaid early, and the current level of these fees;
 - (d) a basic explanation of the basis on which *early repayment charges* are calculated (for example, as a percentage of the loan or as so many months’ interest), including, where appropriate, details of any *cashback* or other incentives that must be repaid. The *illustration* may refer to a separate document for full details of all terms and conditions relating to the charges that apply if the *regulated lifetime mortgage contract* is repaid early;
 - (e) example cash amounts of any *early repayment charges* indicating the range of charges that apply over the period during which such charges apply calculated in accordance with *MCOB 9.4.88R*, which must be described in the *illustration* as ‘cash examples’;
 - (f) the maximum *early repayment charge* that the *customer* could be charged in accordance with *MCOB 12.3* (Early repayment charges), which must be shown as a cash amount and described in the *illustration* as “the maximum charge you could pay” [add if applicable, ‘plus (a) fee(s) which (is/are) currently £x’]; and
 - (g) details of whether or not the *regulated lifetime mortgage contract* is portable on moving house and a brief explanation of any conditions or restrictions that apply including whether there are any restrictions on changing the terms of the *regulated lifetime mortgage contract* during the period in which any *early repayment charges* apply (a reference to another document may be made in order to provide the *customer* with further details of the conditions or restrictions);

- (2) under the sub-heading ‘Circumstances in which early repayment charges do not apply’, a clear statement of the circumstances in which no *early repayment charges* will be payable by the *customer*. (This may include moving to another property, or into sheltered accommodation or residential care.) Where the *regulated lifetime mortgage contract is portable on moving house but no early repayment charges* are payable by the customer, the remaining information required by *MCOB 9.4.83R(1)(g)* should be included here.
- 9.4.84 G The requirements in *MCOB 9.4.83R(1)* may be presented in a tabular format.
- 9.4.85 G Where a *firm* does not impose an *early repayment charge*, it may delete the sub heading ‘Circumstances in which early repayment charges do not apply’.
- 9.4.86 R Where *MCOB 9.4.83(1)(e)* would result in more than three cash amounts being shown in the *illustration*, the cash amounts shown in the *illustration* may be restricted to three examples. These three examples are in addition to the maximum *early repayment charge* required by *MCOB 9.4.83R(1)(f)*. These examples must be representative of the full range of charges that apply and not be limited to the lowest charges that apply. These three examples are in addition to:
- (1) any statement of the amount of any fees described in *MCOB 9.4.83R(1)(c)*; and
- (2) the maximum *early repayment charge* required by *MCOB 9.4.83R(1)(f)*.
- 9.4.87 G An example which would comply with *MCOB 9.4.86R* would be if a five year fixed rate mortgage had a charge which reduced linearly by 1% each year from 5% in the first year to 1% in the final year and cash examples were used based on 5% in year 1, 3% in year 3 and 1% in year 5.
- 9.4.88 R (1) In calculating example cash amounts in accordance with *MCOB 9.4.83R(1)(e)*, it must be assumed that:
- (a) the *regulated lifetime mortgage contract* is repaid in full;
- (b) all payments due (if applicable) on the *regulated lifetime mortgage contract* are actually paid;
- (c) additional fees and charges such as insurance premiums have been paid; and

(d) no underpayments or overpayments (if applicable) have been made.

(2) If:

(a) *cashbacks* or other incentives need to be repaid; or

(b) fees need to be paid;

the amounts that would need to be repaid or paid must be included in the example cash amounts.

(3) Where the calculation of the *early repayment charge* is based on the interest rate charged on the *regulated lifetime mortgage contract*, or on interest rates generally, the interest rate(s) used for the calculation of the example cash amounts must be those in force at the date that the *illustration* is issued to the *customer*.

(4) The example cash amounts must reflect the maximum charge in a particular year. Where it is possible to state exact *early repayment charges* (that is, where all such charges are based on the original amount borrowed), the *illustration* must do so.

9.4.89 R Where the cash examples from MCOB 9.4.88R included in the *illustration* would vary either if the interest rate charged on the *regulated lifetime mortgage contract* changed or with changes in interest rates generally, an appropriate warning that the *early repayment charges* may vary from the cash examples must be included in the *illustration*.

9.4.90 R Where the *early repayment charge* could be higher than those stated in the *illustration* if the *regulated lifetime mortgage contract* continued after the end of the term estimated in accordance with MCOB 9.4.10R or MCOB 9.4.12R, Section 13 of the *illustration* must include a clear statement to that effect.

Section 14 ‘Additional features’

9.4.91 R Under the section heading ‘Additional features’ the *illustration* must include, where relevant, details of how the *mortgage lender* would treat any payments by the *customer* in excess of those required, and details of any additional features or facilities under the various sub-headings in MCOB 9.4.93R.

9.4.92 R (1) If none of the features at MCOB 9.4.93R are applicable to the *regulated lifetime mortgage contract* to which the *illustration* relates, the section headed ‘Additional features’ must be retained, but the sub-headings must not be included and a statement must be added to explain that there are no additional features.

- (2) Only those features available on the *regulated lifetime mortgage contract* need be included in the *illustration*.
- 9.4.93 R The relevant sub-headings are as follows:
- (1) ‘Overpayments’
 - (2) ‘Underpayments’
 - (3) ‘Payment holidays’;
 - (4) ‘Borrow back’;
 - (5) ‘Additional borrowing available without further approval’;
 - (6) ‘Additional secured borrowing’;
 - (7) ‘Credit card’;
 - (8) ‘Unsecured borrowing’;
 - (9) ‘Linked current account’; and
 - (10) ‘Linked savings account’.
- 9.4.94 R
- (1) Under the sub-heading ‘Overpayments’, the *illustration* must include details of any restrictions on lump sum and regular overpayments (if payments are required) on the *regulated lifetime mortgage contract*, together with a statement as to whether or not the amount on which the interest is recalculated is reduced immediately on receipt of any lump sum or regular overpayment.
 - (2) Where such recalculation does not take place immediately (for example, if an annual rest method is used), this statement must be accompanied by an explanation of when the amount on which the interest is recalculated is reduced following a lump sum or regular overpayment.
 - (3) Where *early repayment charges* apply, this section must not repeat the details provided in Section 13 of the *illustration*, but may refer to Section 13.
- 9.4.95 G Where the interest recalculation described in *MCOB* 9.4.94R takes place immediately, *firms* may add a statement in this section explaining that the *customer* will get the benefit of the overpayment immediately.
- 9.4.96 R Under the sub-heading ‘Underpayments’, the *illustration* must include details of whether the *customer* can make underpayments and a brief statement of any conditions that apply.

- 9.4.97 R Under the sub-heading ‘Payment holidays’, the *illustration* must include details of circumstances in which the *customer* can take *payment holidays* and a brief statement of any conditions that apply.
- 9.4.98 R Under the sub-heading ‘Borrow back’, the *illustration* must include details of circumstances in which the *customer* can *borrow back* any monies overpaid and a brief statement of any conditions that apply.
- 9.4.99 R Under the sub-heading ‘Additional borrowing available without further approval’, the *illustration* must provide details of circumstances in which additional *secured lending* is offered with the *regulated lifetime mortgage contract* that would allow the *customer*, subject to certain conditions, to increase the amount of the loan on which the *illustration* is based.
- 9.4.100 R Under the sub-heading ‘Additional secured borrowing’, the *illustration* must provide details of circumstances in which additional *secured lending* is offered with the *regulated lifetime mortgage contract* that would allow the *customer*, subject to certain conditions, to increase the amount of the loan on which the *illustration* is based.
- 9.4.101 R Under the sub-heading ‘Unsecured borrowing’, the *illustration* must provide details of circumstances in which *unsecured lending* is offered with the *regulated lifetime mortgage contract* that would allow the *customer* to increase the amount of the loan on which the *illustration* is based.
- 9.4.102 R Under the sub-heading ‘Credit card’, the *illustration* must:
- (1) state whether a credit card is offered with the *regulated lifetime mortgage contract*; and
 - (2) if a credit card is offered and it is a *mortgage credit card*:
 - (a) unless (b) applies, include the following text:

“This card will not give you a number of the statutory rights associated with traditional credit cards. Your lifetime mortgage offer will tell you more about the differences.”; or
 - (b) where the *mortgage lender* provides the *customer* with contractual rights in relation to a *mortgage credit card* equal to or greater than those provided under the Consumer Credit Act 1974, include the following text:

“This card will not give you a number of the statutory rights associated with traditional credit

cards. However, [insert name of *mortgage lender*] will ensure that you will be treated no differently from the user of a traditional credit card. Your lifetime mortgage offer will tell you more about this.”

- 9.4.103 R Where any of the additional features under *MCOB 9.4.99R* to *MCOB 9.4.102R* inclusive apply the following must also be stated if the amount of additional borrowing that would be available to the *customer* is stated in the *illustration*:
- (1) the maximum additional amount available;
 - (2) if the interest rate payable on any additional borrowing is different to the interest rate in Section 5 and Section 8 of the *illustration*, the interest rate and the *APR* charged on the additional borrowing. The *APR* must be calculated in accordance with *MCOB 10* (Annual Percentage Rate), based on the maximum amount of additional borrowing that would be permitted for the *customer* and the term of the loan from *MCOB 9.4.10R* or *MCOB 9.4.12R*;
 - (3) the total resulting debt the *customer* could incur (including the original loan amount);
 - (4) the payments on this total debt based on the frequency of payments in *MCOB 9.4.37R* (if payments are required) and the interest rate(s) that would apply on the date the *illustration* is issued;
 - (5) whether this additional borrowing must be repaid in full if the original loan is repaid in full, along with details of any conditions that apply;
 - (6) if *early repayment charges* apply to the additional amount borrowed:
 - (a) that *early repayment charges* are payable;
 - (b) an explanation of when *early repayment charges* are payable; and
 - (c) the maximum *early repayment charge* that the customer could be charged in accordance with *MCOB 12.3* which must be shown as a cash amount; and
 - (7) if it is the case, that the maximum amount of borrowing available, or the terms and conditions, may change depending on other factors such as ratio of the loan amount to the property value.

- 9.4.104 R Where more than one additional borrowing facility from *MCOB 9.4.99R* to *MCOB 9.4.102R* applies, *MCOB 9.4.103R(3)* and (4) must each be based on the total of all these *linked borrowing* facilities and included under a separate sub-section titled ‘Total additional borrowing’.
- 9.4.105 G The purpose of *MCOB 9.4.104R* is to show the total amount of any additional borrowing facilities that would be available to the *customer* and the cost of utilising these facilities. It must combine the amount available under any *linked borrowing* facilities including additional *secured lending*, credit cards and *unsecured lending*.
- 9.4.106 R (1) Where additional features are included in accordance with *MCOB 9.4.91R* and these are credit facilities that do not meet the definition of a *regulated mortgage contract*, the relevant parts of Section 14 of the *illustration* must include the following text:
- “This additional feature is not regulated by the Financial Services Authority”.
- (2) Where additional features are included in accordance with *MCOB 9.4.91R* and these are credit facilities regulated by the Consumer Credit Act 1974, the relevant parts of Section 14 of the *illustration* must include the following text after the text in (1):
- "but is regulated under the Consumer Credit Act 1974. You will receive a separate credit agreement with any offer document for this additional feature, describing the detailed terms on which this feature is available."
- 9.4.107 R Where all or part of the maximum amount of additional borrowing is secured on the *customer’s* home, a prominent warning must be included that additional borrowing increases the amount of credit secured on the *customer’s* home.
- 9.4.108 G Suitable wording for the warning contained in *MCOB 9.4.107R* would be:
- “This will increase the amount of borrowing secured on your home.”.
- 9.4.109 R Under the sub-heading ‘Linked current account’ the *illustration* must include the following information:
- (1) whether a linked current account is a compulsory or optional product (if the current account is a compulsory product this must also be stated in Section 5 of the *illustration* in accordance with *MCOB 9.4.24R(7)*);
- (2) an explanation of the interest rates that apply under different circumstances to the linked current account, if

different from the interest rate charged on the *regulated lifetime mortgage contract* (for example, if a different interest rate applies if the account is overdrawn); and

- (3) the *firm* providing the linked current account if it is not the *mortgage lender*.

9.4.110 R Under the sub-heading ‘Linked savings account’ the illustration must include the following information:

- (1) whether a linked savings account is a compulsory or optional product (if the savings account is a compulsory product this must also be stated in Section 5 of the *illustration* in accordance with *MCOB 9.4.24R(7)*);
- (2) the interest rate paid on the linked savings account if it differs from the interest rate charged on the *regulated lifetime mortgage contract*; and
- (3) the *firm* providing the linked savings account if it is not the *mortgage lender*.

Section 15 ‘Overall cost of this mortgage’

9.4.111 R Under the section heading ‘Overall cost of this mortgage’:

- (1) the following text must be included in the illustration:

“The APR helps you to compare lifetime mortgages by giving you one rate that shows the overall cost of the mortgage. It takes into account some fees and charges as well as the interest due, and this means that the APR may be higher than the interest rate shown in Sections 5 and 8. Only use the APR to compare lifetime mortgages of the same type, and where the same example term is used.”;

- (2) where the *customer* is required to make payments on the *regulated lifetime mortgage contract* the following text must also be included in the *illustration*:

“The overall cost takes into account the payments in Sections 8 and 11 above.”; and

- (3) reference must be made to any other payments that have been included in the *APR* but not included in Sections 8 and 11 of the *illustration* if these are relevant to the *regulated lifetime mortgage contract* that is the subject of the *illustration*.

9.4.112 G *MCOB 9.4.111R(3)* would require, for example, a reference to the fact that the overall cost takes into account mortgage payment protection insurance where this is required as a condition of the *regulated lifetime*

mortgage contract to which the *illustration* relates. The requirement to take out such insurance must be stated in Sections 5 and 12 of the *illustration* in accordance with *MCOB 9.4.24R(7)*, *MCOB 9.4.72R* or *MCOB 9.4.76R*.

- 9.4.113 R The following text must be included after the text required by *MCOB 9.4.111R* with the relevant cost measures shown in the right-hand column of Section 15 in accordance with the layout shown in *MCOB 9 Annex 1R*:
- (1) “The total amount you would pay back over the example term of [insert number of years in accordance with *MCOB 9.4.10R* or *MCOB 9.4.12R*] including the amount borrowed is £[insert *total amount payable*].”; and
 - (2) “The overall cost for comparison is [insert the *APR*] % *APR*.”.
- 9.4.114 R (1) The *APR* and the *total amount payable* in *MCOB 9.4.113R* must be calculated on the basis of information obtained from the *customer* in accordance with *MCOB 9.4.6R*.
- (2) Where there is a charge to be included in the *APR* and *total amount payable* and the precise amount of that charge is not known at the time that the *illustration* is provided, *MCOB 10.3* (Formula for calculating the *APR*) sets out a number of relevant assumptions to be used. If the method for including the charge is not addressed in *MCOB 10* (Annual Percentage Rate), the charge must be estimated based on information which is known to be representative of the *regulated lifetime mortgage contract* to which the *illustration* relates.
 - (3) Where the *regulated lifetime mortgage contract* is a *roll-up of interest mortgage*, the *total amount payable* must be based on the total amount that the *customer* would owe at the end of the example term.
- 9.4.115 G In relation to *MCOB 9.4.114R(2)*, the cost of conveyancing would be an example of a charge for which representative information may need to be used in the calculation of the *APR* and the *total amount payable*.
- 9.4.116 R At the end of Section 15 the following text must be included, if relevant:
- “The figures in this section will vary following interest rate changes.”.
- 9.4.117 G The prescribed text at *MCOB 9.4.116R* would not be relevant if the *illustration* is for a *regulated lifetime mortgage contract* that has a fixed interest rate throughout the life of the mortgage.

9.4.118 G The purpose of the *illustration* is to provide the *customer* with details of the cost of borrowing the amount required over the example term from *MCOB 9.4.6R* and *MCOB 9.4.10R* (or 9.4.12R). Section 14 has been designed specifically to allow examples of the effect of any additional features of the *regulated lifetime mortgage contract* such as a linked current account. Examples of these features should therefore be shown in Section 14 and not in Section 15 or Section 8 of the *illustration*.

Section 16 ‘Using a mortgage intermediary’

9.4.119 R Where the *illustration* is issued to a *customer* by, or on behalf of, a *mortgage intermediary*, Section 16 ‘Using a mortgage intermediary’ must be included in the *illustration* and must include the following:

- (1) unless *MCOB 9.4.120R* applies, a clear statement of the amount payable (either directly or indirectly) by the *mortgage lender* to the *mortgage intermediary*, or to any third parties; and
- (2) the name of the *mortgage lender* who will make the payment, the name of the *mortgage intermediary* and the names of any third parties who will be paid.

9.4.120 R If the amount payable by the *mortgage lender* to the *mortgage intermediary* and to third parties is £250 or less, the *mortgage intermediary* need only state that the amount of the payment is ‘no more than £250’, unless the *customer* requests the actual amount.

9.4.121 R If the *mortgage intermediary* will pass to the *customer* all or part of the amount payable to the *mortgage intermediary* under *MCOB 9.4.119R(1)* or *MCOB 9.4.120R*, that fact may be stated in this section, along with the amount payable to the *customer*.

9.4.122 R If the *mortgage lender* will make no payment to the *mortgage intermediary* or any third party, this section may state that the *mortgage intermediary* will receive no payment.

9.4.123 R The amount payable in *MCOB 9.4.119R(1)* or *MCOB 9.4.120R* must include:

- (1) any *procuration fee*; and
- (2) a cash value for any material non-cash inducements that the *mortgage lender* provides to a *mortgage intermediary* or third party, whether payable directly or indirectly.

9.4.124 G *MCOB 2.3.7R* requires any material inducements provided to a *mortgage intermediary* or third party connected to the *mortgage intermediary*, by a *mortgage lender*, whether directly or indirectly, to be quantified in cash terms, which will enable the cash values to be included in the *illustration* in accordance with *MCOB 9.4.123R*.

9.4.125 G An example of a statement which would comply with *MCOB* 9.4.119R and *MCOB* 9.4.123R would be:

“[name of *mortgage lender*] will pay [name of *mortgage intermediary*] an amount of £350 in cash and benefits if you take out this lifetime mortgage.”.

Contact details

9.4.126 R This section must:

- (1) follow Section 15 ‘Overall cost of this mortgage’, unless the *illustration* is issued by a *mortgage intermediary*, in which case it must follow Section 16 ‘Using a mortgage intermediary’; and
- (2) include the name, address and contact point of the *firm* providing the illustration.

9.4.127 G An example of wording which would comply with *MCOB* 9.4.126R(2) would be:

“If you wish to discuss this lifetime mortgage illustration please contact [name of individual] at [address] or on [telephone number].”.

Foreign currency mortgages

9.4.128 R If the *customer’s* liability under a *regulated lifetime mortgage contract* is in a currency other than sterling, *MCOB* 9.4 applies to the *illustration* for that *regulated lifetime mortgage contract* with the following modifications:

- (1) all cash amounts must be given in the relevant currency except where otherwise required by (2)(a) and (3);
- (2) the following information must be stated under Section 5 ‘Description of this mortgage’:
 - (a) the amount in sterling on which the *illustration* is based from *MCOB* 9.4.13R based on the exchange rate in (2)(b);
 - (b) the exchange rate used; and
 - (c) when the exchange rate quoted applied;
- (3) the following text must be added at the end of Section 5 ‘Description of this mortgage’:

“This illustration is based on the sterling equivalent of [insert details from (2)(a)] based on [insert details from (2)(b)] as at [insert details from (2)(c)]. Exchange rates can

vary significantly. The effect of a 5% decrease in the value of sterling to the [insert name of relevant currency] would increase your total borrowing to [insert amount to which the amount borrowed from *MCOB* 9.4.13R would increase in sterling]. [Insert if payments are required: This would increase your [insert frequency of payments from *MCOB* 9.4.37R] payments by the sterling equivalent of £[insert amount in sterling]].”.

The following information must be added to this text:

- (a) the cash amount to which the amount borrowed would increase in sterling if there was a decline of 5% in the value of sterling when compared to the relevant currency; and
- (b) if payments are required, the amount by which (2)(b) would increase the *customer's* payments based on the frequency of payments from *MCOB* 9.4.37R, shown as a sterling equivalent cash amount.

Risk warning

- 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.”.

Shared appreciation mortgages

- 9.4.130 R If the *regulated lifetime mortgage contract* is a *shared appreciation mortgage*, *MCOB* 9.4 applies to the *illustration* with the following modifications:

- (1) Section 5 ‘Description of this mortgage’ must contain the following additional information and text in this order after the details required by *MCOB* 9.4.24R to *MCOB* 9.4.29R:
 - (a) “This lifetime mortgage involves [name of *mortgage lender*] taking a percentage share in any increase in the value of your property [insert details of all occasions when the share will be payable to the *mortgage lender*, for example, ‘after x years, or when this lifetime mortgage comes to an end or is terminated early’]. The amount [name of *mortgage lender*] will take depends on any increase in the value of your property.” [Include if relevant: “If your property falls in value between now and the end of this lifetime mortgage you will be required to pay

[add details of what the *customer* will need to pay the *mortgage lender* if the property falls in value].”;

- (b) (i) a basic explanation of how the amount of the share payable to the *mortgage lender* is calculated including the proportions of any given increase in the value of the property and whether this is dependent on the level of growth (for example, that the share payable to the *mortgage lender* is all of the increase in value of the property for the first 5% increase in value, plus half of the additional increase in the value of the property above this);
- (ii) a reference to a separate document for full details of the terms and conditions relating to the amount of the share payable followed by:

“The example below shows how this works.

EXAMPLE: Based on the current [estimated] value of your home of [insert details from *MCOB 9.4.6R(3)*], the example(s) below show(s) what the value of your home would be and what share of that value [name of *mortgage lender*] would take after [insert example term of the loan in accordance with *MCOB 9.4.10R* or *MCOB 9.4.12R* or the term after which the equity share becomes payable if less] if the value of your home increased. [Include if relevant: “and what would happen if your home decreased in value.”] “Please note that you should add this payment to the amount of any *early repayment charges* that may be payable – see Section 13”;

- (c) except where (g) applies, example cash amounts for the value of the property and the corresponding amount of the equity share payable, assuming an average annual increase in the value of the property secured by the *regulated lifetime mortgage contract* of 1%, 5% and 10% over the example term from (i) below;
- (d) if the *customer* would be required to pay the *mortgage lender* an amount because the value of the property on which the *regulated lifetime mortgage contract* would be secured had decreased from its value at the start of the term of the *regulated lifetime mortgage contract*, include example cash amounts for the value of the property and the corresponding

amount payable assuming an average annual decrease, in the value of the property secured by the *regulated lifetime mortgage contract* of 1%, 5% and 10% over the term from (i) below;

- (e) if the amount of the equity share payable cannot go above or below a certain level, an explanation that this is the case along with a cash example described as ‘the maximum amount you could pay’;
- (f) include this text after the cash examples in (c):
“This is not an indication of how the actual value of your home may change.”;
- (g) where (c) or (d) apply and the maximum percentage equity share payable is less than the example percentages in (c) or (d), only cash examples for those percentages required by (c) or (d) which are below this maximum need be quoted, along with the maximum in accordance with (e);
- (h) if there are no restrictions on the amount of the equity share payable, the following text should follow the text in (f):
“The amount you will need to pay could be much higher than this.”; and
- (i) for the purposes of the examples required by (c) or (d), the example term used must be stated and must be the estimated term of the *regulated lifetime mortgage contract* in accordance with *MCOB 9.4.10R* or *MCOB 9.4.12R* or the term after which the equity share becomes payable, if less;

- (2) Section 10: ‘How the value of your home could change’ of the *illustration* must contain the following text at the end of the section:

“You also need to think about the cost of paying any share in the value of your home to [insert name of *mortgage lender*] - see Section 5.”

- (3) Section 13 ‘What happens if you do not want this mortgage any more?’ must contain the following text at the end of the first sub-heading ‘Early repayment charges’:

“Remember to add the cost of paying any share in the value of your home to [insert name of *mortgage lender*] – see Section 5.”

(4) Section 15 ‘Overall cost of this mortgage’ of the *illustration* must contain the following text at the end of the section:

“The APR and the total amount you must pay do not take account of the share that [insert name of *mortgage lender*] takes in any increase in the value of your home as described in Section 3. So you should not use these measures to compare this lifetime mortgage with other lifetime mortgages that do not involve [insert name of *mortgage lender*] taking a share in any increase in the value of your home.”.

9.4.131 G The requirements in *MCOB* 9.4.130R(1)(c) and (d) may be presented in a tabular format.

Risk warning

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.”.

9.5 Disclosure at the offer stage for lifetime mortgages

- 9.5.1 R
- (1) *MCOB* 6.1 to 6.6 (with the modifications stated in *MCOB* 9.5.2R to *MCOB* 9.5.4R) apply to a *mortgage lender* where the *regulated mortgage contract* is a *regulated lifetime mortgage contract*.
 - (2) The table in *MCOB* 9.5.2R shows how the relevant *rules* and *guidance* in *MCOB* 6 must be modified by replacing the cross-references with the relevant cross-references to *rules* and *guidance* in *MCOB* 9.4, and *MCOB* 9.5.
 - (3) The table in *MCOB* 9.5.3R replaces certain *rules* and *guidance* in *MCOB* 6 with *rules* and *guidance* from *MCOB* 9.5.

9.5.2 R Table of modified cross-references to other rules:

This table belongs to *MCOB* 9.5.1R.

Subject	Rule or guidance	Reference in rule or guidance	To be read as a reference to:
Application: What?	<i>MCOB</i> 6.1.5R	<i>MCOB</i> 6	<i>MCOB</i> 6 as modified by <i>MCOB</i> 9.5

Content of offer document	MCOB 6.1.6G	MCOB 5.6	MCOB 9.4
Purpose	MCOB 6.2.1G	MCOB 6	MCOB 6 as modified by MCOB 9.5
General	MCOB 6.3.2R		
Records	MCOB 6.4.3R		
Modifications to the illustration	MCOB 6.4.5G	MCOB 6.4.4R(5)(b)	MCOB 9.5.4R(6)(b)
Modifications to the illustration	MCOB 6.4.6R	MCOB 6.4.4(1)	MCOB 9.5.4R(1)
Modifications to the illustration	MCOB 6.4.6R(1) and (2)	MCOB 5.6	MCOB 9.4
Modifications to the illustration	MCOB 6.4.7R	MCOB 6.4.4R(1)	MCOB 9.5.4R(1)
Modifications to the illustration	MCOB 6.4.7R(2)	MCOB 5	MCOB 9
Modifications to the illustration	MCOB 6.4.7R(3)	MCOB 5.6.73R to MCOB 5.6.83G	MCOB 9.4.72R to MCOB 9.4.82G
Modifications to the illustration	MCOB 6.4.7R(3)	MCOB 5.6.92R to MCOB 5.6.112G	MCOB 9.4.91R to MCOB 9.4.110R
Other information contained in the offer document	MCOB 6.4.13R	MCOB 5.6.122R	MCOB 9.4.126R
Offer documents in place of illustrations	MCOB 6.6.1R	MCOB 5.4 and MCOB 5.5	MCOB 5.4 and MCOB 5.5 as modified by MCOB 9

9.5.3

R Table of rules in MCOB 6 replaced by rules in MCOB 9:

This table belongs to *MCOB 9.5.1R*

Subject	Rule	Rule replaced by
Modifications to the <i>illustration</i>	<i>MCOB 6.4.4R</i>	<i>MCOB 9.5.4R</i>

9.5.4

- R** The *illustration* provided as part of the *offer document* in accordance with *MCOB 6.4.1R(1)* must meet the requirements of *MCOB 9.4*, with the following modifications:
- (1) the *illustration* must be suitably adapted and revised to reflect the fact that the *firm* is making an offer to a *customer* and updated to reflect changes to, for example, the interest rate, charges, the exchange rate or the APR required by *MCOB 10* (Annual Percentage Rate) at the date the *illustration* is issued;
 - (2) the *illustration* must be based on the example term estimated in accordance with *MCOB 9.4.10R*;
 - (3) *MCOB 9.4.2R(2)(a)* does not apply;
 - (4) *MCOB 9.4.17R* (Information to be included at the head of the illustration) does not apply;
 - (5) *MCOB 9.4.18R* (Section 1: ‘About this information’) is replaced by the following: “Section 1: ‘About this offer document’.

Under the section heading ‘About this offer document’, the following text must be included:

- (a) “You are not bound by the terms of this offer document until [insert relevant circumstances, including the names of any documents that must be signed. For example “you have signed the legal charge and the funds are released for your lifetime mortgage”].

We are required by the Financial Services Authority (FSA) – the independent watchdog that regulates financial services – to provide you with this offer document.””

- (b) (unless *MCOB 6.6.1* applies)

“You should compare this offer document with the key facts illustration given to you before you applied for this lifetime mortgage, to see how the details may have changed.”;

- (6) Unless (b) applies, *MCOB 9.4.19R* (Section 2: ‘Which service are we providing you with?’) is replaced with the following:

“Section 2: ‘Which service did we provide you with?’

- (a) Under the section heading ‘Which service did we provide you with?’ the following text should be presented as two options each with a ‘check box’, one of which must be marked prominently to indicate the level of service provided to the *customer*:

“We have recommended, having assessed your needs, that you take out this lifetime mortgage.

We have not recommended a particular lifetime mortgage for you. You must make your own choice whether to accept this lifetime mortgage offer.”;

- (b) If the service described in *MCOB 9.4.19R* (Section 2: ‘Which service are we providing you with?’) was provided by another *firm*, *MCOB 9.4.19R* is replaced by the following:

“Section 2: ‘Which service were you provided with?’

Under the section heading ‘Which service were you provided with?’ the following text should be presented as two options each with a ‘check box’ one of which must be marked prominently to indicate the level of service provided to the *customer*:

“[name of firm] recommended that you take out this lifetime mortgage.

[name of firm] did not recommend a particular lifetime mortgage for you. You must make your own choice whether to accept this mortgage offer.”;

- (7) the fees recorded in the *illustration* that is part of the *offer document* in accordance with *MCOB 9.4.65R(1)* must include any fees that have been paid by the *customer*;

- (8) *MCOB 9.4.68R(5)* is replaced by the following:

“(where the fee is payable or has been paid to the *mortgage lender*), whether or not the fee is refundable, and if so, the extent to which it is refundable”;

- (9) details of insurance which the *customer* has chosen to take out through the *firm*, whether or not this insurance was included in the *illustration* provided in accordance with *MCOB 9*, must be included in Section 12 of the *illustration* that is part of the *offer document*;

- (10) where additional features are included in accordance with *MCOB 9.4.91R* and these are credit facilities regulated by the Consumer Credit Act 1974, the relevant parts of Section 14 of the *illustration* that is part of the *offer document* must include the following text:

"This credit facility is regulated under the Consumer Credit Act 1974. Please refer to the separate credit agreement which describes the facility and the terms on which the credit is available.";

- (11) The text required by *MCOB 9.4.102R(2)(a)* or (b) should be adapted to include, or tell the *customer* where they can find, the information required by *MCOB 6.5.4R*; and
- (12) *MCOB 9.4.119R* and *MCOB 9.4.120R* apply to the *illustration* that is part of the *offer document* if the *illustration* given out in accordance with *MCOB 9* was issued by, or on behalf of, a *mortgage intermediary*.

9.6 Disclosure at the start of the contract and after sale for lifetime mortgages

- 9.6.1 R** (1) *MCOB 7.1 to 7.3, MCOB 7.5 and MCOB 7.6* (with the modifications stated in *MCOB 9.6.2R to MCOB 9.6.4R*) apply to a *firm* where the *regulated mortgage contract* is a *regulated lifetime mortgage contract*.
- (2) The table in *MCOB 9.6.2R* shows how the relevant *rules* and *guidance* in *MCOB 7* must be modified by replacing the cross-references with the relevant cross-references to *rules* and *guidance* in *MCOB 9.4 to MCOB 9.8*.
- (3) The table in *MCOB 9.6.3R* replaces certain *rules* and *guidance* in *MCOB 7* with *rules* and *guidance* from *MCOB 9.7* and *MCOB 9.8*.
- (4) The table in *MCOB 9.6.4R* disapplies certain *rules* in *MCOB 7* for the purposes of *MCOB 9*.

9.6.2 R Table of modified cross-references to other rules:

This table belongs to *MCOB 9.6.1R*.

Subject	Rule or guidance	Reference in rule or guidance	To be read as a reference to:
Application	<i>MCOB 7.1.4R</i>	<i>MCOB 7.6.7R - MCOB 7.7.4R</i>	<i>MCOB 7.6.7R - MCOB 7.6.33G</i> as modified by <i>MCOB 9.8.5R-9.8.9R</i>

Application	<i>MCOB 7.1.5R</i>	<i>MCOB 7.5 - MCOB 7.7.4R</i>	<i>MCOB 7.5.- - MCOB 7.6.33G as modified by MCOB 9.8</i>
Information in more than one document	<i>MCOB 7.3.3R</i>	<i>MCOB 7</i>	<i>MCOB 7 as modified by MCOB 9</i>
Frequency of statements	<i>MCOB 7.5.6G</i>	<i>MCOB 7.5.3R(2)</i>	<i>MCOB 9.8.1R(2)</i>
Cost of redeeming	<i>MCOB 7.5.7R</i>	<i>MCOB 7.5.3R(4)(e)</i>	<i>MCOB 9.8.1R(4)(d)</i>
Annual statement – additional content	<i>MCOB 7.5.9G</i>	<i>MCOB 7.5.3R(2)(b)</i>	<i>MCOB 9.8.1R</i>
Further advances	<i>MCOB 7.6.7R</i>	<i>MCOB 5</i>	<i>MCOB 9.4</i>
Further advances	<i>MCOB 7.6.10G</i>	<i>MCOB 7.6.9R(1)</i>	<i>MCOB 9.8.5R(1)</i>
Further advances	<i>MCOB 7.6.10G</i>	<i>MCOB 5.6.34</i>	<i>MCOB 9.4.114R</i>
Further advances	<i>MCOB 7.6.11G</i>	<i>MCOB 7.6.9R(3) and (4)</i>	<i>MCOB 9.8.5R(3)</i>
Further advances	<i>MCOB 7.6.11G(2)</i>	<i>MCOB 5.6.40R</i>	<i>MCOB 9.4.37R</i>
Further advances	<i>MCOB 7.6.12G</i>	<i>MCOB 7.6.9R(3)</i>	<i>MCOB 9.8.5R(3)</i>
Further advances	<i>MCOB 7.6.13R</i>	<i>MCOB 5.6.25R(2)(a)</i>	<i>MCOB 9.4.24R(4)(a)</i>
Further advances	<i>MCOB 7.6.13R</i>	<i>MCOB 7.6.9R(3)(b)</i>	<i>MCOB 9.8.5R(3)(b)</i>
Further advances	<i>MCOB 7.6.14R</i>	<i>MCOB 5</i>	<i>MCOB 9</i>
Rate switches	<i>MCOB 7.6.18R</i>		

Rate switches	<i>MCOB</i> 7.6.20R		
Addition or removal of party to contract	<i>MCOB</i> 7.6.22R(1)		
Addition or removal of party to contract	<i>MCOB</i> 7.6.25R		
Changes to payments	<i>MCOB</i> 7.6.29G	<i>MCOB</i> 7.6.28R	<i>MCOB</i> 9.8.9R or <i>MCOB</i> 9.8.10R
Changes to payments	<i>MCOB</i> 7.6.30G		
Use of illustrations	<i>MCOB</i> 7.6.31R		
Use of illustrations	<i>MCOB</i> 7.6.31R	<i>MCOB</i> 5	<i>MCOB</i> 9
Use of illustrations	<i>MCOB</i> 7.6.32R	<i>MCOB</i> 7.6.28R	<i>MCOB</i> 9.8.9R or <i>MCOB</i> 9.8.10R
Use of illustrations	<i>MCOB</i> 7.6.32R	<i>MCOB</i> 7.6.18R and <i>MCOB</i> 7.6.22R	<i>MCOB</i> 7.6.18R and <i>MCOB</i> 7.6.22R as modified by <i>MCOB</i> 9
Simultaneous requests	<i>MCOB</i> 7.6.33G		
Simultaneous requests	<i>MCOB</i> 7.6.33G	<i>MCOB</i> 5	<i>MCOB</i> 9

9.6.3

R Table of rules in *MCOB* 7 replaced by rules in this chapter:

This table belongs to *MCOB* 9.6.1R.

Subject	Rule or guidance	Rule replaced by:
Information at start of contract	<i>MCOB</i> 7.4	<i>MCOB</i> 9.7
Content of statement	<i>MCOB</i> 7.5.3R	<i>MCOB</i> 9.8.1R
Frequency of statements	<i>MCOB</i> 7.5.5R	<i>MCOB</i> 9.8.2R
Event-driven information	<i>MCOB</i> 7.6.1R	<i>MCOB</i> 9.8.3R

Release of additional borrowing	<i>MCOB 7.6.6G</i>	<i>MCOB 9.8.4G</i>
Further advances	<i>MCOB 7.6.9R</i>	<i>MCOB 9.8.5R</i>
Further advances	<i>MCOB 7.6.16R</i>	<i>MCOB 9.8.7R</i>
Addition or removal of party to contract	<i>MCOB 7.6.27R</i>	<i>MCOB 9.8.8R</i>
Changes to payments	<i>MCOB 7.6.28R</i>	<i>MCOB 9.8.9R and MCOB 9.8.10R</i>

9.6.4 R Table of rules in *MCOB 7* which do not apply in relation to regulated lifetime mortgage contracts:

This table belongs to *MCOB 9.6.1R*.

Subject	Rule
Annual statements: content	<i>MCOB 7.5.4R</i>
Business loans	<i>MCOB 7.7</i>

9.7 Disclosure at the start of the contract

9.7.1 G *MCOB 9.7* applies to a firm when it enters into a regulated lifetime mortgage contract

Disclosure requirements where interest payments are required

9.7.2 R A firm that enters into a regulated lifetime mortgage contract with a customer where interest payments are required (whether or not they will be collected by deduction from the income from an annuity or other linked investment product) must provide the customer with the following information before the customer makes the first payment under the contract:

- (1) the amount of the first payment required;
- (2) the amount of the subsequent payments;
- (3) the method by which the payments will be collected (for example, by direct debit or by deduction from a linked investment product such as an annuity) and the frequency of such payments and the date of collection of the first and subsequent payments;
- (4) the net amount which the customer will receive, where the interest payment is deducted from the income generated by a linked investment product such as an annuity, and the method by which this amount will be paid to the customer;

- (5) confirmation of whether in connection with the *regulated lifetime mortgage contract* insurance products such as buildings and contents insurance or payment protection insurance) have been purchased through the *firm*;
- (6) the first premium (and subsequent premiums where different) for insurance products purchased through the *firm* in connection with the *regulated lifetime mortgage contract*;
- (7) confirmation of whether the insurance premiums are to be collected with the mortgage payment or separately (where the latter applies, the *firm* must give details or state that these will be confirmed separately);
- (8) confirmation that the *regulated lifetime mortgage contract* is on an interest-only basis, and details of how the *firm* expects the capital to be repaid (for example, from the proceeds of the sale of the property);
- (9) if it is possible for *arrears* to occur, what to do if the *customer* falls into *arrears*, explaining the benefit of making early contact with the *firm*, providing the name, address and telephone of a contact point with the *firm*, and drawing the *customer's* attention to the *arrears* charges set out in the *tariff of charges*;
- (10) confirmation of any *linked borrowing* and *linked deposits* that are available; and
- (11) whether the *regulated lifetime mortgage contract* permits the *customer* to make any overpayments or underpayments of the amounts due.

9.7.3 R The information in *MCOB 9.7.2R* must be provided to the *customer* in a single communication, except (5), (6) and (9) which may be provided separately.

Disclosure requirements where the regulated lifetime mortgage contract is a drawdown mortgage with fixed payments to the customer

9.7.4 R A *firm* that enters into a *regulated lifetime mortgage contract* which is a *drawdown mortgage*, with fixed payments to the *customer*, must provide the *customer* with the following information before the first payment is drawn down by the *customer*:

- (1) the amount of the first payment to be made;
- (2) the amount of subsequent payments, if different;

- (3) the method by which the payment will be made (for example, by transfer to the *customer's* bank account) and the date of issue of the first and subsequent payments;
- (4) confirmation of whether in connection with the *regulated lifetime mortgage contract* insurance products such as buildings and contents insurance or payment protection insurance) have been purchased through the *firm*;
- (5) the first premium (and subsequent premiums where different) for insurance products purchased through the *firm* in connection with the *regulated lifetime mortgage contract*;
- (6) confirmation of the method and date of collection of the premiums for insurance products purchased through the *firm*;
- (7) details of how the *firm* expects the capital and interest to be repaid (for example from the proceeds of the sale of the property);
- (8) confirmation of any *linked borrowing* and *linked deposits* that are available; and
- (9) whether the *regulated lifetime mortgage contract* permits the *customer* to make any repayments on the *regulated lifetime mortgage contract*.

9.7.5 R The information in *MCOB 9.7.4R* must be provided to the *customer* in a single communication, except (4), (5) and (6) which may be provided separately.

Disclosure requirements where the regulated lifetime mortgage contract is a drawdown mortgage without fixed payments to the customer

9.7.6 R Where the *regulated lifetime mortgage contract* is a *drawdown mortgage* and the *customer* can choose the amount and frequency of the payments they receive, or the amount and frequency of payments can vary for other reasons (for example in line with interest rates) the *firm* must provide the *customer* with the following information before the first payment is drawn down by the *customer*:

- (1) (a) where the *customer* can choose the amount and frequency of the payments they receive, details of any limitations to the amount and frequency of the payments which the *customer* may request; or
- (b) where the amount and frequency of payments can vary for other reasons (for example in line with

interest rates), the amount of the first payment and details of how the amount and frequency of the payments can be varied in future;

- (2) the method by which the payment will be made (for example, by transfer to the *customer's* bank account);
- (3) confirmation of whether in connection with the *regulated lifetime mortgage contract* insurance products such as buildings and contents insurance or payment protection insurance) have been purchased through the *firm*.
- (4) the first premium (and subsequent premiums where different) for insurance products purchased through the *firm* in connection with the *regulated lifetime mortgage contract*;
- (5) confirmation of the method and date of collection of the premiums for insurance products purchased through the *firm*;
- (6) details of how the *firm* expects the capital and interest to be repaid (for example from the proceeds of the sale of the property);
- (7) confirmation of any *linked borrowing* and *linked deposits* that are available; and
- (8) whether the regulated lifetime mortgage contract permits the *customer* to make any repayments on the *regulated lifetime mortgage contract*.

9.7.7 R The information in *MCOB 9.7.6R* must be provided to the *customer* in a single communication, except (3), (4) and (5) which may be provided separately

Disclosure requirements where a lump sum payment is made to the customer and interest is rolled up

9.7.8 R Where the *regulated lifetime mortgage contract* provides for a lump sum payment to be made to the *customer*, and all or part of the interest will be rolled up during the life of the mortgage, the *firm* must provide the *customer* with the following information before the *customer* makes the first payment under the contract, or if no payments are required from the *customer*, within seven days of completion of the mortgage:

- (1) if no payments are required from the *customer*, confirmation that no payments are required and details of how the *firm* expects the capital and interest to be repaid (for example from the proceeds of the sale of the property);

- (2) if payments are required from the *customer*:
 - (a) the amount of the first payment required;
 - (b) the amount of the subsequent payments;
 - (c) the method by which the payments will be collected, the frequency of such payments and the date of collection of the first and subsequent payments; and
 - (d) what to do if the *customer* falls into *arrears*, explaining the benefit of making early contact with the *firm*, providing the name, address and telephone of a contact point with the *firm*, and drawing the *customer's* attention to the *arrears* charges set out in the *tariff of charges*;
- (3) confirmation of whether in connection with the *regulated lifetime mortgage contract* insurance products such as buildings and contents insurance or payment protection insurance) have been purchased through the *firm*.
- (4) the amount of the first premium (and subsequent premiums where different) for insurance products purchased through the *firm* in connection with the *regulated lifetime mortgage contract* ;
- (5) confirmation of the method and date of collection of the premiums for insurance products purchased through the *firm*. in connection with the *regulated lifetime mortgage contract*;
- (6) confirmation of any *linked borrowing* and *linked deposits* that are available; and
- (7) whether the regulated lifetime mortgage contract permits the *customer* to make any overpayments or underpayments of the amounts due.

9.7.9 R The information in *MCOB 9.7.8R* must be provided to the *customer* in a single communication, except (3) (4) and (5) which may be provided separately

Record keeping requirements

9.7.10 R (1) A *firm* must make and retain an adequate record of the information that it provides to each *customer* at the start of the *regulated lifetime mortgage contract* in accordance with this section.

- (2) The record required by (1) must be maintained for a year from the date that the information is provided to the *customer*.

9.8 Disclosure after sale

Annual statements: content

- 9.8.1 R The statement required by *MCOB 7.5.1R* must contain the following information:
- (1) except in the case of *mortgage credit cards*, information on the type of *regulated lifetime mortgage contract*, (for example, fixed rate or variable rate) including a clear statement of how the *firm* expects the capital, or capital and interest (whichever is applicable) to be repaid (for example, from the proceeds of the sale of the property);
 - (2) details of the following transactions and information on the *regulated lifetime mortgage contract* during the period since the last statement (or, where the statement is the first statement, since the *customer* entered into the *regulated lifetime mortgage contract*):
 - (a) (if applicable) the date and amount of each payment made by the *customer*;
 - (b) (if applicable) the amount of each payment that was due from the *customer* during the statement period;
 - (c) for *drawdown mortgages*, the date and amount of each payment made to the *customer*;
 - (d) the rates(s) of interest applicable to the *regulated lifetime mortgage contract* during the statement period and, if applicable, the date(s) on which the rate(s) of interest changed;
 - (e) the amount of interest charged under the *regulated lifetime mortgage contract* during the statement period; and
 - (f) any other amounts charged under the *regulated lifetime mortgage contract* during the statement period, including fees and any amounts due in relation to *tied products*;
 - (3) where it is possible for *arrears* to occur, a reminder that the *customer* should contact the *firm* if they are unable to make their regular payments under the *regulated lifetime mortgage contract*; and

- (4) information at the date the statement is issued on:
- (a) the amount owed by the customer under the *regulated lifetime mortgage contract*;
 - (b) the date at which any *early repayment charges* on the *regulated lifetime mortgage contract* cease to apply, and the circumstances under which they will not apply;
 - (c) where applicable, the *early repayment charge* that applies, expressed as a monetary amount (see *MCOB 9.4.83R*);
 - (d) the cost of redeeming the *regulated lifetime mortgage contract* at the date that the statement is issued (this must be shown as the sum of *MCOB 9.8.1R(4)(a)* and *MCOB 9.8.1R(4)(c)* plus any other charges that can be quantified at the date the statement is issued). If additional charges are payable that cannot be quantified at the point that the statement is issued (for example if the *customer* is in *arrears*) a warning must be included to that effect (see *MCOB 7.5.7R* regarding what is included in the cost of redeeming the *regulated lifetime mortgage contract*); and
 - (e) where applicable, the date on which the requirement for the *customer* to purchase any *tied products* from the *firm* comes an end.

9.8.2 R Where a *firm* provides a *customer* with a statement containing the information set out in *MCOB 9.8.1R(2)* more frequently than once a year, the information set out in *MCOB 9.8.1R(1)*, *MCOB 9.8.1R(3)* and *MCOB 9.8.1R(4)* may be provided in a separate communication, but must be provided at least once a year.

Event driven information

9.8.3 R A *firm* must give the *customer* reasonable notice, in advance, of any of the following:

- (1) any changes to the payments that the *customer* is required to make (where payments are required, and whether or not they are collected by deduction from the income provided by a linked *investment* product such as annuity) resulting from interest rate changes;
- (2) the exercising of the *firm's* right (if allowed by the terms of the *regulated lifetime mortgage contract*) to enter the property to carry out essential repairs and maintenance

(the cost must be confirmed to the *customer* where this will be added to the mortgage debt); and

- (3) any material change by the *firm* (other than changes which come within *MCOB 7.6.2R* or are included in *MCOB 9.8.3R(1)* and (2)) to the terms and conditions of the *regulated lifetime mortgage contract*, where that change is permitted without the *customer's* prior consent.

9.8.4 G Examples of where *MCOB 7.6.5R* will apply are the release of tranches of money to the *customer* in relation to a self-build mortgage or other instalment mortgage, but not a *drawdown mortgage*.

Further advances

9.8.5 R The *illustration* provided in accordance with *MCOB 7.6.7R* must;

- (1) be based on the amount of the further advance only;
- (2) use the term ‘additional borrowing’ in place of the term ‘lifetime mortgage’ where appropriate throughout the titles and text of the *illustration*;
- (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:
 - (a) “This section gives you information about how your lifetime mortgage will be affected by taking out this additional borrowing. Talk to [your mortgage lender][insert name of mortgage lender] if you are not sure of the details of your current lifetime mortgage.”;
 - (b) a clear statement explaining the total amount that the *customer* will owe if he takes out the additional borrowing; and,
 - (i) where payments are required on the *regulated lifetime mortgage contract*, what the *customer's* new payments will be; or
 - (ii) where the *regulated lifetime mortgage contract* is a *roll-up of interest 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).

9.8.6 G The estimated term required at *MCOB 9.8.5R(3)(b)(ii)* may be:

- (1) the term originally estimated in accordance with *MCOB* 9.4.10R; or
- (2) where the term originally estimated in accordance with *MCOB* 9.4.10R has expired, a revised estimate in accordance with *MCOB* 9.4.10R; or
- (3) a term of the customer's choice, if the customer expresses a preference.

9.8.7 R *MCOB* 9.4.18R is replaced with the following:

“Section 1: ‘About this information’

Under the section heading ‘About this information’, the following text must be included:

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

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

Addition or removal of a party to a contract

9.8.8 R For the purposes of *MCOB* 7.6.22R, *MCOB* 9.4.19R is replaced with the following;

“Section 2: ‘Which service are we providing you with?’

Under the section heading ‘Which service are we providing you with?’ the following text should be included:

“We are providing you with an illustration for the addition/removal of a party/parties to this lifetime mortgage. You must make your own choice about whether changing the parties to this lifetime mortgage is right for you.”

Changes to payments, amounts drawn down and amount owed

9.8.9 R If a *customer* requests, or agrees to, a change to a *regulated lifetime mortgage contract* (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 of each payment due (where payments are required), a *firm* must provide the *customer* with the following information, in a single communication, before the change takes effect:

- (1) the amount outstanding on the *regulated lifetime mortgage contract* at the date the change is requested;

- (2) the payment due and the frequency of payments; where it is known that the payment will change (for example at the end of a fixed rate period), the new payment and the date of the change must also be shown;
- (3) the rate of interest applying to the *regulated lifetime mortgage contract*; where it is known that the rate of interest will change, the new rate and the date of the change must also be shown;
- (4) the type of interest rate (for example fixed, or discounted); where it is known that the type of interest rate will change the new type and the date of the change must also be shown;
- (5) details of any charges that apply for changing the *regulated lifetime mortgage contract*.

9.8.10

R If a *customer* requests, or agrees to, a change to a *regulated lifetime mortgage contract* (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 interest mortgage*, or both, a *firm* must provide the *customer* with the following information, in a single communication, before the change takes effect:

- (1) the amount outstanding on the *regulated lifetime mortgage contract* at the date the change is requested;
- (2) (if applicable) the revised amount to be paid to the *customer* under the *drawdown mortgage* and the frequency of payments;
- (3) (a) an estimate of the revised amount that will be owed at the end of the term; or
 (b) (if the original term has expired) a revised estimate;
 in accordance with *MCOB 9.4.10R*;
- (4) the rate of interest applying to the *regulated lifetime mortgage contract*; where it is known that the rate of interest will change, the new rate and the date of the change must also be shown;
- (5) the type of interest rate (for example fixed, or discounted); where it is known that the type of interest rate will change the new type and the date of the change must also be shown;
- (6) details of any charges that apply for changing the *regulated lifetime mortgage contract*.

MCOB 9 Annex 1R

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

1. This annex forms part of *MCOB 9.4.2R*.
2. The underlined text indicates instructions that must not be included in the *illustrations provided to customers*



about this lifetime mortgage

Personalised information on a lifetime mortgage for insert customer's name; see *MCOB 9.4.17R(1)*

Date produced: insert date - see *MCOB 9.4.17R(2)*

Insert details of how long the *illustration* is valid for, and if appropriate when the mortgage needs to commence by - see *MCOB 9.4.17R(3)*.

This is not a legally binding mortgage offer and it does not oblige [name of *mortgage lender*] to provide you with the mortgage described in this illustration.

1. About this information

- We are required by the Financial Services Authority (FSA) – the independent watchdog that regulates financial services - to provide you with this illustration.
- All firms selling lifetime mortgages are required to give you illustrations like this one, that contain similar information presented in the same way.
- Ask for other illustrations if you want to compare this lifetime mortgage with lifetime mortgages from other lenders.
- The FSA provides useful information on lifetime mortgages and other ways of releasing equity from your home in a booklet called [title to be inserted¹]. You can get this free through the FSA website www.fsa.gov.uk/consumer or by calling 0845 606 1234.

2. Which service are we providing you with?

	We recommend , having assessed your needs, that you take out this lifetime mortgage.
	We are not recommending a particular lifetime mortgage for you. However, based on your answers to some questions we are giving you information about this lifetime mortgage so that you can make your own choice, or find out about other ways in which you may be able to release equity from your home

¹ Booklet to be produced by implementation date of MCOB 9

3. What is a lifetime mortgage?

Important information from the Financial Services Authority:

- A lifetime mortgage is a special type of loan which is usually designed to run for the rest of your life, and which means that you borrow money that is secured on your home to give you a lump sum and/or a regular income. The amount you owe to the lender is usually paid back from the proceeds of the sale of your home after your death. If you are borrowing with someone else this would be after the death of the last borrower. Any money left over would be paid to your beneficiaries.
- If you buy a new home, you may be able to transfer your lifetime mortgage to your new home, or you may be able to get a new lifetime mortgage. Otherwise you will usually have to repay the amount you owe to the lender from the money you get from the sale of your home. Any money left over belongs to you.
- If you move into sheltered accommodation or long term care you will usually have to repay the amount you owe to the lender from the money you get from the sale of your home. Again, any money left over belongs to you. If you are borrowing jointly with someone else and one of you needs to move into long-term care, you don't usually have to sell your home until the last borrower either dies or moves into long-term care or another property.
- If you decide that you simply don't want the lifetime mortgage any more, you can repay the amount you owe to the lender at any time, but the lender may make an early repayment charge if you do. Section 13 of this illustration will tell you if any early repayment charges apply to this mortgage.
- Some lifetime mortgages are linked to an investment - this means you borrow a lump sum which is invested (for example in an annuity) to give you a regular income. If this happens the full details of the investment will be shown in a separate document and it is important to read both documents together.

4. What you have told us

See MCOB 9.4.21R- MCOB 9.4.23G

5. Description of this mortgage

See MCOB 9.4.24R- MCOB 9.4.30G

For foreign currency mortgages see MCOB 9.4.128R- MCOB 9.4.129R

For shared appreciation mortgages see MCOB 9.4.130R - MCOB 9.4.132R

6. Benefits	
See <i>MCOB 9.4.31R(1)</i>	£X
Your net income: <u>This box only required where the <i>regulated lifetime mortgage contract</i> is linked to an <i>investment</i> and the payments due on the <i>regulated lifetime mortgage contract</i> are deducted from the income from the <i>investment</i> – see <i>MCOB 9.4.31R(2)</i></u>	
Other benefits and incentives See <i>MCOB 9.4.31R(3)</i>	

7. Risks – important things you must consider
See <i>MCOB 9.4.33R</i> to <i>MCOB 9.4.35R</i>

8. What you will owe and when <u>(A) details of mortgage payments - this section is only required where the <i>customer</i> is required to make payments to the <i>mortgage lender</i> in respect of all or part of the interest payable See <i>MCOB 9.4.36G</i></u>	[insert frequency of payments – see <i>MCOB 9.4.37R</i>]
See <i>MCOB 9.4.37R</i> to <i>MCOB 9.4.46R</i> .	£
<u>This section is required only for multi-part mortgages where there is a future change in the interest rate(s) charged.</u> What you will owe in future	[insert frequency of payments – see <i>MCOB 9.4.37R</i>]
See <i>MCOB 9.4.47R</i> - <i>MCOB 9.4.48R</i>	<u>Insert amounts(s)</u>

8. What you will owe and when <u>(B) projection of roll-up of interest - this section is only required where the <i>customer</i> is not required to make payments to the <i>mortgage lender</i> in respect of all or part of the interest payable- See <i>MCOB 9.4.49G</i></u>					
See <i>MCOB 9.4.50R</i> “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.”					
Year	Balance at start of year	Amount paid to you during the year £	Interest charged at x %	Fees charged during the year	What you owe at end of year £
See <i>MCOB 9.4.51R(1)</i>	See <i>MCOB 9.4.51R(2)</i>	See <i>MCOB 9.4.51R(3)</i> .	See <i>MCOB 9.4.51R(4)</i> .	See <i>MCOB 9.4.51R(5)</i> .	See <i>MCOB 9.4.51R(6)</i> .

9. Total borrowing [for further advances only – if used subsequent sections will be renumbered] See <u>MCOB 9.8.5R</u>
--

9. Will the interest rate change? See <u>MCOB 9.4.53R – MCOB 9.4.61G</u>
--

10. How the value of your home could change See <u>MCOB 9.4.62R- MCOB 9.4.64R</u> <u>For shared appreciation mortgages see MCOB 9.4.130R(2)</u>
--

11. What fees must you pay?	Fee amount
Fees payable to [insert name of mortgage lender] <u>See MCOB 9.4.65R to MCOB 9.6.71R</u>	<u>Insert amount of each fee</u>
Other fees <u>See MCOB 9.4.65R to MCOB 9.6.71R</u>	<u>Insert amount of each fee</u>

12. Insurance	<u>[insert frequency of payments for premium quoted payments]</u>
Insurance you must take out through [insert name of mortgage lender or mortgage intermediary] <u>See MCOB 9.4.72R to MCOB 9.4.75R and MCOB 9.4.81R</u>	£
Insurance you must take out as a condition of this lifetime mortgage but that you do not have to take out through [insert name of mortgage lender or mortgage intermediary] <u>See MCOB 9.4.76R to MCOB 9.4.78G MCOB 9.4.81R</u>	£
Optional insurance <u>This box is only required where quotations for optional insurance are provided in the illustration. See MCOB 9.4.79R to MCOB 9.4.80R and MCOB 9.4.81R</u>	£

13. What happens if you do not want this mortgage any more?
Early repayment charges <u>See MCOB 9.4.83R to MCOB 9.4.90R.</u> <u>For shared appreciation mortgages see MCOB 9.4.130R(3)</u>
Circumstances in which early repayment charges do not apply <u>See MCOB 9.4.83R(2).</u>

14. Additional features

See *MCOB 9.4.91R to MCOB 9.4.110R*

15. Overall cost of this mortgage

See *MCOB 9.4.111R to MCOB 9.4.112G*

See *MCOB 9.4.113R*

The total amount you would pay back over the example term of [insert number of years] including the amount borrowed is:

£[insert details]

The overall cost for comparison is:

[insert details]% APR

See *MCOB 9.4.116R*

For shared appreciation mortgages see MCOB 9.4.130R(4)

16. Using a mortgage intermediary

This section is required only when the illustration is provided to a customer by a mortgage intermediary. If the illustration is provided by a mortgage lender, this section must be removed

See *MCOB 9.4.119R to MCOB 9.4.125G*

Contact details

See *MCOB 9.4.126R to MCOB 9.4.127G*

10 ANNUAL PERCENTAGE RATE

10.1 Application

- 10.1.1 R This chapter applies to a *firm* which, under *rules* elsewhere in *MCOB*, is required to calculate an *annual percentage rate of charge (APR)*.

10.2 Purpose

- 10.2.1 G The purpose of this chapter is to establish the requirements for the proper calculation of the *APR*. As a cost measure which facilitates comparisons between similar mortgages offered on a similar basis, the *APR* is an integral element of the *rules* relating to *qualifying credit promotions* and disclosure.

10.3 Formula and assumptions for calculating the APR

Formula for calculating the APR

- 10.3.1 R (1) The *APR* must be calculated so that, subject to (4), the *annual percentage rate of charge* is the rate for *i* which satisfies the equation set out in (2), expressed as a percentage.

- (2) The equation referred to in (1) is:

$$\sum_{K=1}^{K=m} \frac{A_K}{(1+i)^{t_K}} = \sum_{K'=1}^{K'=m'} \frac{A'_{K'}}{(1+i)^{t_{K'}}$$

where

K is the number identifying a particular advance of credit;

K' is the number identifying a particular instalment;

A_K is the amount of advance **K**;

A'_{K'} is the amount of instalment **K'**;

Σ represents the sum of all the terms indicated;

m is the number of advances of credit;

m' is the total number of instalments;

t_K is the interval, expressed in years, between the *relevant date* and the date of the second advance and those of any subsequent advances numbered three to **m**; and

'K' is the interval, expressed in years, between the *relevant date* and the dates of instalments numbered one to m'.

- (3) In (2), references to instalments are references to any payment made by or on behalf of the *customer* which comprise:
- (a) a repayment of all or part of the credit under the contract; or
 - (b) a payment of all or part of the *total charge for credit*; or
 - (c) both a repayment of all or part of the credit and a payment of all or part of the *total charge for credit*.
- (4) Where more than one rate is given under (1), the *APR* is the positive rate nearest to zero or, if no positive rate is given, the negative rate nearest to zero.

10.3.2 G This calculation method is the same (with the exception of *MCOB* 10.3.8R(1) and (2)) as that described in the Consumer Credit (Total Charge for Credit) Regulations 1980 (SI 1980/51) as amended. Because of this, some of the terminology is different from that used elsewhere in *MCOB*, e.g. the references to 'transactions' should be read as relating to *secured lending*. As a guide for *firms*, *MCOB* 10 Annex 1G lists the substantively identical provisions in *MCOB* 10 and the 1980 Regulations.

APR calculation: assumptions as to the credit provided

- 10.3.3 R (1) The *APR* must be calculated on the basis of the following assumptions:
- (a) the assumption that the *customer* will not be entitled to any income tax relief relating to the transaction other than relief under sections 266–7 of the Income and Corporation Taxes Act 1988 and Schedule 14-15 to the same Act without any deduction under section 274 of the Income and Corporation Taxes Act 1988;
 - (b) the assumption that no assistance is given under the Home Purchase Assistance and Housing Corporation Guarantee Act 1978;
 - (c) (i) in the case of a transaction which provides for repayment of the credit or of the *total charge for credit* at or not later than a specified time or times, the assumption that the *mortgage lender* or *mortgage administrator* will not exercise any right under the

transaction to require repayment at any other time or times; and

- (ii) in any other case, the assumption that the *mortgage lender* or *mortgage administrator* will not exercise any right under the transaction to require payment;

the *customer*, in any case, performing all his obligations under the transaction;

- (d) unless (e) applies, in the case of a transaction which provides for variation of the rate or amount of any item included in the *total charge for credit* in consequence of the occurrence after the *relevant date* of any event, the assumption that the event will not occur; and, in this sub-paragraph, ‘event’ means an act or omission of the *customer* or of the *mortgage lender* or *mortgage administrator* or any other event (including, where the transaction makes provision for variation upon the continuation of any circumstance, the continuation of that circumstance) but does not include an event which is certain to occur and of which the date of occurrence, or the earliest date of occurrence, can be ascertained at the date of the making of the agreement; and
- (e) in the case of a *secured lending* contract which provides for the possibility of any variation of the rate of interest in consequence of the occurrence after the *relevant date* of any event (being an event which is certain to occur and of which the date of occurrence, or the earliest date of occurrence, can be ascertained at the date of the making of the agreement), the assumption that such a variation will, when the event occurs, take place.

(2) For the purposes this chapter:

- (a) an item included in the *total charge for credit* must not be treated as credit, even if time is allowed for its payment;
- (b) subject to (c) and to *MCOB 10.3.13R*, in the case of any agreement, each provision of credit and each repayment of the credit and of the *total charge for credit* must be taken to be made:
 - (i) at the earliest time provided under the transaction; and

- (ii) in a case where any such provision or repayment is to be made at or not later than a specified time, at that time;

and, where any such repayment is to be made before the *relevant date*, it must be taken to be made on the *relevant date*;

- (c) where, under an agreement for *running-account credit* or an agreement for *fixed-sum credit* where the credit is not repayable at specified intervals or in specified amounts, a constant period rate of charge in respect of periods of equal or of nearly equal length is charged, it must be assumed, despite *MCOB 10.3.12R*, that:

- (i) the amount of credit outstanding at the beginning of a period is to remain outstanding throughout the period;

- (ii) the amount of any credit provided during a period is provided immediately after the end of the period; and

- (iii) any repayment of credit or of the *total charge for credit* made during a period is made immediately after the end of the period; and

- (d) it must be assumed that the amount of any repayment of credit or of the *total charge for credit* will, at the time when the repayment is made, be the smallest for which the agreement provides.

APR calculation: rounding

10.3.4 R Where the *APR*, as calculated in accordance with *MCOB 10.3.1R*, has more than one decimal place it must be rounded to one decimal place as follows:

- (1) where the figure at the second decimal place is greater than or equal to five, the figure at the first decimal place must be increased by one and the decimal place (or places) following the first decimal place must be disregarded; and
- (2) where the figure at the second decimal place is less than five, that decimal place and any decimal places following it must be disregarded.

APR calculation: the calculation of any period

10.3.5 R For the purposes of calculations under this chapter, the length of any period must be calculated as follows:

- (1) a period which is not a whole number of calendar months or a whole number of weeks must be counted in years and days;**
- (2) subject to (3), a period which is a whole number of calendar months or a whole number of weeks must be counted in calendar months or in weeks, as the case may be;**
- (3) where a period is both a whole number of calendar months and a whole number of weeks and:**
 - (a) one repayment only is to be made, the period must be counted in calendar months,**
 - (b) more than one repayment is to be made:**
 - (i) if all such repayments are to be made at intervals from the relevant date of one or more weeks, the period must be counted in weeks; and**
 - (ii) in any other case, the period must be counted in calendar months;**
- (4) a period which is to be counted:**
 - (a) in calendar months must be taken to be of a length equal to the relevant number of twelfth parts of a year;**
 - (b) in weeks, must be taken to be of a length equal to the relevant number of fifty-second parts of a year.**
- (5) a day may be taken to be either:**
 - (a) one three hundred and sixty-fifth part of a year or, if it is a leap year, one three hundred and sixty-sixth part of a year; or**
 - (b) one three hundred and sixty fifth and a quarter part of a year.**
- (6) Every day must be taken to be a *business day*.**

APR calculation: necessary assumptions

- 10.3.6 R (1) *MCOB 10.3.7R to MCOB 10.3.13R* apply for the purpose of the calculation of the *total charge for credit* and of the rate of that charge in respect of matters necessary for the calculation which cannot be ascertained by the *mortgage lender* or *mortgage administrator* at the date of the making of the agreement.
- (2) In a case where *MCOB 10.3.7R* and one or more of *MCOB 10.3.8R to MCOB 10.3.13R* are applicable, *MCOB 10.3.7R* must be applied first.

APR calculation: assumptions as to the amount of credit

- 10.3.7 R (1) Where the amount of the credit to be provided under the agreement cannot be ascertained at the date of the making of the agreement:
- (a) in the case of an agreement for *running-account credit* under which there is a credit limit, that amount must be taken to be that credit limit; and
- (b) in any other case, that amount shall be taken to be £100.
- (2) Where a *mortgage lender* makes a further advance to the *customer* in addition to the amount originally borrowed under the *regulated mortgage contract*, the *APR* for the further advance must be calculated in respect of the further advance alone (and any related charges), and not in respect of the total amount borrowed.

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

- 10.3.8 R (1) In relation to a *regulated lifetime mortgage contract*, where the *APR* is calculated for the purpose of a *qualifying credit promotion* it must be assumed that the credit is being provided for a period of 15 years beginning with the *relevant date*.
- (2) In relation to a *regulated lifetime mortgage contract*, where the *APR* is calculated for the purpose of an *illustration*, the period for which the credit is to be provided must be calculated in accordance with *MCOB 9.4.10R* or *MCOB 9.4.12R*.
- (3) Where, in any other case, the period for which credit is to be provided is not ascertainable at the date of the making of

the agreement, it must be assumed that credit is provided for one year beginning with the *relevant date*.

APR calculation: assumption where rate or amount is referenced to another factor

- 10.3.9 R Subject to *MCOB 10.3.10R*, where the rate or amount of any item included in the *total charge for credit*, or the amount of any repayment of credit under a transaction, is to be ascertained by reference to the level of any index or other factor in accordance with a specified formula, the rate or amount must be taken to be the rate or amount so ascertained. The formula must be applied as if the level of the index or other factor subsisting at the date of the making of the agreement were that subsisting at the date by reference to which the formula is to be applied.

APR calculation: assumptions where secured lending contracts provide for the variation in the rate of interest

- 10.3.10 R (1) The assumptions in *MCOB 10.3.10R(3)* and (4) apply to any *secured lending* contracts which provide for the possibility of any variation of the rate of interest if it is to be assumed, under *MCOB 10.3.3R(1)(e)*, that the variation will take place but the amount of the variation cannot be ascertained at the date of the making of the agreement.
- (2) In this paragraph:
- (a) ‘initial standard variable rate’ means:
- (i) the standard variable rate of interest which would be applied by the *mortgage lender* or *mortgage administrator* to the agreement on the date of the making of the agreement if the agreement provided for interest to be paid at the *mortgage lender* or *mortgage administrator’s* standard variable rate with effect from that date; or
- (ii) if there is no such rate, the standard variable rate of interest applied by the *mortgage lender* or *mortgage administrator* on the day of the making of the agreement in question to other *secured lending* contracts or, where there is more than one such rate, the highest such rate;
- taking no account of any discount or other reduction to which the *customer* would or might be entitled;
and

(b) 'varied rate' means any rate of interest charged when a variation of the rate of interest under *MCOB* 10.3.3R(1)(e) is to be assumed.

(3) Where a *secured lending* contract provides a formula for calculating a varied rate by reference to a standard variable rate of interest applied by the *firm*, or any other fluctuating rate of interest, but does not enable the varied rate to be ascertained at the date of the making of the agreement because it is not known on that date what the standard variable rate will be or (as the case may be) at what level the fluctuating rate will be fixed when the varied rate falls to be calculated, it must be assumed that that rate or level will be the same as the initial standard variable rate.

(4) Where a *secured lending* contract provides for the possibility of any variation in the rate of interest (other than a variation referred to in *MCOB* 10.3.10R(3)) which it is to be assumed, under *MCOB* 10.3.3R(1)(e), will take place, but does not enable the amount of that variation to be ascertained at the date of the making of the agreement, it must be assumed that the varied rate will be the same as the initial standard variable rate.

APR calculation: further assumptions

10.3.11 R Where:

(1) the period for which the credit, or any of it, is to be or may be provided cannot be ascertained at the date of the making of the agreement; and

(2) the rate or amount of any item included in the *total charge for credit* will change at a time provided in the transaction within one year beginning with the *relevant date*;

the rate or amount must be taken to be the highest rate or amount under the transaction at any time in that year.

10.3.12 R Where the earliest date on which credit is to be provided cannot be ascertained at the date of making of the agreement, it must be assumed that credit is provided on that date.

10.3.13 R In the case of any transaction, it must be assumed:

(1) that a charge payable at a time which cannot be ascertained at the date of the making of the agreement is to be payable on the *relevant date* or, where it may reasonably be expected that a *customer* will not make payment on that date, on the earliest date at which it may reasonably be expected that he will make payment; or

- (2) where more than one payment of a charge of the same description is to be made at times which cannot be ascertained at the date of the making of the agreement, that the first such payment will be payable on the *relevant date* (or, where it may reasonably be expected that a *customer* will not make payment on that date, at the earliest date on which it may reasonably be expected that he will make payment), that the last such payment will be payable at the end of the period for which credit is provided and that all other such payments (if any) will be payable at equal intervals between those times.

10.4 Total charge for credit

Make up of the total charge for credit

10.4.1 R For the purposes of this chapter, the *total charge for credit* which may be provided under an actual or prospective agreement is the total (determined as at the date of the making of the agreement) of the charges specified in *MCOB 10.4.2R* which apply in relation to the agreement, but excluding the charges specified in *MCOB 10.4.4R*.

Items included in the total charge for credit

10.4.2 R The amounts of the following charges are included in the *total charge for credit* in relation to an agreement, with the exceptions in *MCOB 10.4.4R*:

- (1) the total of the interest on the credit which may be provided under the agreement;
- (2) other charges at any time payable under the transaction by or on behalf of the *customer*, whether to the *firm* or any other person; and
- (3) a premium under a contract of insurance, payable under the transaction by the *customer*, where the making or maintenance of the contract of insurance is required by the *firm*:
 - (a) as a condition of making the agreement; and
 - (b) for the sole purpose of ensuring complete or partial repayment of the credit, and complete or partial payment to the *firm* of such of those charges included in the *total charge for credit* as are payable to him under the transaction, in the event of the death, invalidity, illness or unemployment of the *customer*;

notwithstanding that the whole or part of the charge may be repayable at any time or that the consideration therefore may include matters not within the transaction or subsisting at a time not within the duration of the agreement.

- 10.4.3 G (1) *MCOB 10.4.2R* means, for example, that the following charges must be included within the *total charge for credit*:
- (a) any fee payable to a *mortgage intermediary* for arranging the contract (see *MCOB 10.4.2R(2)*); and
 - (b) any *higher lending charge*.
- (2) The *FSA* takes the view that charges required to be included within the *total charge for credit* should not be excluded on the basis of these charges being refundable in certain circumstances.
- (3) The *FSA* also takes the view that the *total charge for credit* and *APR* should not reflect the ‘value’ of any cashback or similar incentive linked to the contract.

Exclusions from the total charge for credit

- 10.4.4 R (1) **The amounts of the following items are not included in the *total charge for credit* in relation to an agreement:**
- (a) **any charge payable under the transaction to the *firm* upon failure by the *customer* to do or to refrain from doing anything which he is required to do or to refrain from doing;**
 - (b) **any charge:**
 - (i) **which is payable by the *firm* to any person upon failure by the *customer* to do or to refrain from doing anything which he is required under the transaction to do or to refrain from doing; and**
 - (ii) **which the *firm* may under the transaction require the *customer* to pay to him or to another person on his behalf;**
 - (c) **any charge relating to a regulated *restricted-use credit agreement* to finance a transaction between the *customer* and the *firm* (whether forming part of that agreement or not), or to finance a transaction between the *customer* and a person (the “supplier”) other than the *firm* which would be payable if the transaction were for cash;**

- (d) any charge (other than a *fee* or commission charged by a credit-broker or *mortgage intermediary*) not within *MCOB 10.4.4R(1)(c)*:
 - (i) of a description which relates to services or benefits incidental to the agreement and also to other services or benefits which may be supplied to the *customer*; and
 - (ii) which is payable to fulfil an obligation incurred by the *customer* under arrangements which were effected before he applied to enter into the agreement and are not arrangements under which the *customer* is bound to enter into any personal credit agreement;
- (e) any charge under arrangements for the care, maintenance or protection of any land or goods (except as in *MCOB 10.4.4R(2)*);
- (f) charges for money transmission services relating to an arrangement for a current account under which the *customer* may, by cheques or similar orders payable to himself or to any other person, obtain or have the use of money held or made available by the *firm* and which records alterations in the financial relationship between the *firm* and *customer*, being charges which vary with the use made by the *customer* of the arrangement;
- (g) any charge for a guarantee other than a guarantee:
 - (i) which is required by the *firm* as a condition of making the agreement; and
 - (ii) the purpose of which is to ensure complete or partial repayment of the credit, and complete or partial payment to the *firm* of such of those charges included in the *total charge for credit* as are payable to him under the transaction, in the event of death, invalidity, illness or unemployment of the *customer*;
- (h) charges for the transfer of funds (other than charges within *MCOB 10.4.4R(1)(f)*) and charges for keeping an account intended to receive payments towards the repayment of the credit and the payment of interest and other charges, except where the *customer* does not have reasonable freedom of choice in the matter and where such charges are abnormally high; this

does not exclude from the *total charge for credit charges* for collection of the payments to which it refers, whether such payments are made in cash or otherwise; and

- (i) a premium under a contract of insurance other than a contract of insurance referred to in *MCOB 10.4.2R(3)*.
- (2) In the case of a charge within *MCOB 10.4.4R(1)(e)*, (1) has effect only:
- (a) where under the arrangement:
 - (i) the services are to be performed if, after the date of the making of the agreement, the condition of the land or goods becomes or is in immediate danger of becoming such that the land or goods cannot reasonably be enjoyed or used; and
 - (ii) the charge will not accrue unless the services are performed; or
 - (b) where:
 - (i) provision of substantially the same description as that to which the arrangements relate is available under comparable arrangements from a person who is not the *firm* or a supplier or a credit-broker or a *mortgage intermediary* who introduced the *customer* and the *firm*;
 - (ii) the arrangements are made with a person chosen by the *customer*; and
 - (iii) (if, in accordance with the transaction, the consent of the *firm* or of a supplier or of the *mortgage intermediary* or credit-broker who introduced the *customer* and the *firm* is required to the making of the agreement), where the transaction provides that such consent may not be unreasonably withheld whether because no incidental benefit will or may accrue to the *firm* or to the supplier or to the credit-broker or to the *mortgage intermediary* or on any other ground.
- (3) References in *MCOB 10.4.4R(2)* to the *firm*, a supplier, a *mortgage intermediary* and a credit-broker include

references to his near relative, his partner and a member of a group of which he is a member, to any person nominated by him or any such person in relation to the arrangements, and to a near relative of his partner; and 'near relative' means, in relation to any person, the husband, wife, father, mother, brother, sister, son or daughter of that person and 'group' means the person (including a company) having control of a company together with all the companies directly or indirectly controlled by him.

A guide to the substantively identical provisions of MCOB 10 and the Consumer Credit (Total Charge for Credit) Regulations 1980

This annex is intended as a reference aid for *firms* familiar with the existing consumer credit legislation regarding the calculation of the *APR*. This chapter is drafted to be substantively identical to this legislation (the primary differences being the adoption of *FSA* handbook terminology and the substitution of different internal references). The table gives the appropriate cross-reference for requirements in this chapter and the Total Charge for Credit Regulations.

Substantively Identical Provisions	
MCOB 10	Total Charge for Credit Regulations
10.3.1R	Regulation 7
10.3.3R	Regulation 2
10.3.4R	Regulation 6A
10.3.5R	Regulation 11
10.3.6R	Regulation 12
10.3.7R	Regulation 13
10.3.8R(3)	Regulation 14
10.3.9R	Regulation 15
10.3.10R	Regulation 15A
10.3.11R	Regulation 16
10.3.12R	Regulation 17
10.3.13R	Regulation 18
10.4.1R	Regulation 3
10.4.2R	Regulation 4
10.4.4R	Regulation 5

11 RESPONSIBLE LENDING

11.1 Application

Who?

11.1.1 R This chapter applies to a *firm* in a category listed in column (1) of the table in *MCOB 11.1.2R* in accordance with column (2) of that table.

11.1.2 R Table

This table belongs to *MCOB 11.1.1R*

(1) Category of firm	(2) Applicable section
<i>mortgage lender</i>	whole chapter

What?

11.1.3 R This chapter applies if a *firm*:

- (1) *enters into a regulated mortgage contract with a customer; or*
- (2) *makes a further advance or varies an existing regulated mortgage contract to make a further advance to a customer.*

11.2 Purpose

11.2.1 G *Principle 6* requires a *firm* to pay due regard to the interests of its *customers* and treat them fairly. This chapter reinforces *Principle 6* by requiring a *firm* in the circumstances described in *MCOB 11.1.3R* to take account of a *customer's* ability to repay before deciding to enter into a *regulated mortgage contract* or make a further advance on a *regulated mortgage contract*. The *FSA* regards it as important that *customers* should not be exploited by *firms* that lend in circumstances where they are self-evidently unable to repay through income and yet have no alternative means of repayment.

11.3 Responsible lending

Customer's ability to pay

- 11.3.1 R
- (1) **A *firm* must be able to show that before deciding to enter into a *regulated mortgage contract* with a *customer*, or making a further advance on a *regulated mortgage contract*, account was taken of the *customer's* ability to repay.**
 - (2) **A *firm* must make an adequate record to demonstrate that it has taken account of the *customer's* ability to repay for each *regulated mortgage contract* that it enters into and each further advance that it provides on a *regulated mortgage***

contract. The record must be retained for a year from the date at which the *regulated mortgage contract* is entered into or the further advance is provided.

Self-certification of income

- 11.3.2 R In taking account of a *customer's* ability to repay a loan for the purposes of *MCOB* 11.3.1R(1), a *firm* may rely upon self-certification of income by the *customer* in circumstances where the *firm* considers it to be appropriate, having regard to the interests of the *customer*, and where the *firm* has no reasonable grounds for doubting the information provided.
- 11.3.3 G (1) Examples of the circumstances where the *firm* may consider self-certification of income to be appropriate for the purposes of *MCOB* 11.3.2R include:
- (a) where the *customer* is an existing *customer* of the *firm*, with an established and good payment history;
 - (b) where proof of income is not readily available by virtue of the nature of the *customer's* employment, the basis of their remuneration, or the sources of their income; or
 - (c) where the *customer* has a deadline for entering into the *regulated mortgage contract* (for example, in an auction sale) and therefore there is insufficient time for the *firm* to complete its usual enquiries.
- (2) The examples in (1) are not exhaustive. There may be other circumstances in which a *firm* may consider self-certification to be appropriate. It will depend on the circumstances of each case. However, in considering whether self-certification is appropriate, a *firm* should have regard to its responsibilities to its *customers* and, in particular, should guard against taking any action that would be contrary to *Principle 6* and in breach of *MCOB* 11.3.1R and *MCOB* 11.3.2R.

Responsible lending policy

- 11.3.4 R (1) A *firm* must put in place, and operate in accordance with, a written policy setting out the factors it will take into account in assessing a *customer's* ability to repay.
- (2) A *firm* must make and keep up-to-date an adequate record of the policy in (1). When the policy is changed, a record of the previous policy must be retained for a year from the date of change.
- 11.3.5 G (1) In determining the written policy in accordance with *MCOB* 11.3.4R(1), a *firm* should assume (in the absence of evidence to the contrary) that any regular payments under a *regulated*

mortgage contract will be met from the *customer's* income. A *firm* should therefore take account of the *customer's* actual or reasonably anticipated income, or both, in reaching a decision on whether to enter into a *regulated mortgage contract* with that *customer* or make a further advance.

- (2) Other factors that the *FSA* would expect to be considered by a *firm* in taking account of the *customer's* ability to repay include:
 - (a) the level of both initial and subsequent repayments, where known (including, for *interest-only mortgages*, the cost of any associated *repayment vehicle*). This means, for example, that where the mortgage cost is significantly discounted for the initial period of a *regulated mortgage contract*, a *mortgage lender* should also consider the level of repayments the *customer* is expected to make at the end of that period, based on interest rates applicable at the time the *mortgage lender* is considering whether to enter into the *regulated mortgage contract* or make a further advance; and
 - (b) whether the *customer* has the ability to, and intends to, repay, either wholly or partly, from resources other than income. Such resources could include the realisation of *investments*, or the planned sale of the mortgaged property as in the case of a *regulated lifetime mortgage contract*.

- 11.3.6 G Where the *regulated mortgage contract* is an *interest-only mortgage*, and the *firm* is unable to establish the cost of the associated *repayment vehicle*, the repayments described in *MCOB* 11.3.5G(2)(a) may be based on an equivalent *repayment mortgage*.
- 11.3.7 G Where *MCOB* 11.3.5G(2)(b) applies, the *firm* should be able to demonstrate the *customer's* intention to repay (for example, by reference to information given by the *customer* on an application form or to correspondence with the *customer*).
- 11.3.8 G The record maintained in accordance with *MCOB* 11.3.1R(2) should include or provide reference to matters such as:
- (1) what checks, if any, the *firm* has carried out, regarding the *customer's* ability to repay; or
 - (2) evidence that demonstrates the *customer's* ability and intention to repay the loan, from resources other than income.

12 CHARGES

12.1 Application

Who?

12.1.1 R This chapter applies to a *firm* in a category listed in column (1) of the table in *MCOB 12.1.2R* in accordance with column (2) of that table.

12.1.2 R Table

(1) Category of firm	(2) Applicable section
<i>mortgage lender</i>	whole chapter
<i>mortgage adviser</i> <i>mortgage arranger</i>	<i>MCOB 12.1,</i> <i>MCOB 12.2 and</i> <i>MCOB 12.5.2R</i>
<i>mortgage administrator</i> <i>a firm that was a mortgage lender or mortgage administrator before the sale of a repossessed property</i>	<i>MCOB 12.1, MCOB 12.2,</i> <i>MCOB 12.4 and 12.5.2R</i>

What?

12.1.3 R This chapter applies where a *firm*:

- (1) *enters into, or makes a further advance on, a regulated mortgage contract; or*
- (2) *administers a regulated mortgage contract; or*
- (3) *arranges or advises on a regulated mortgage contract or a variation to the terms of a regulated mortgage contract.*

12.1.4 R The requirements in *MCOB 12.4* (Arrears charges) and *MCOB 12.5* (Excessive charges) will continue to apply to a *firm* after a *regulated mortgage contract* has come to an end following the sale of a *repossessed property*. References in this chapter to ‘*customer*’ will include references to a former *customer* as appropriate.

12.1.5 G The *FSA* will expect a *firm* to ensure that charges made to a *customer* arising from the sale of a *repossessed property* and charges arising in relation to a *mortgage shortfall debt* are not excessive and are subject to the same considerations as apply with respect to *arrears charges* under this chapter.

12.2 Purpose

- 12.2.1 G (1) *Principle 6* requires a *firm* to pay due regard to the interests of its *customers* and treat them fairly. A *firm* is also under an obligation, as a consequence of *MCOB 5* (Pre-application disclosure), *MCOB 6* (Disclosure at the offer stage), *MCOB 7* (Disclosure at start of contract and after sale) and *MCOB 9* (Lifetime mortgages: product disclosure), to make charges transparent to *customers*. This chapter reinforces these requirements by preventing a *firm* from imposing unfair and excessive charges.
- (2) The level of charges under a *regulated mortgage contract* is not typically a matter for regulation. However, in certain limited circumstances, the *FSA* believes that *customers* should be protected from unfair and excessive charging practices. This chapter considers four specific circumstances, where:
- (a) the charges imposed upon a *customer* seeking to terminate a *regulated mortgage contract* before the end of the term of the contract do not reflect the cost of termination to the *firm*;
 - (b) the charges imposed on a *customer* in payment difficulties are not based upon the costs incurred by the *firm*;
 - (c) the charges (including rates of interest) imposed on a *customer* under a *regulated mortgage contract* are excessive and contrary to the *customer's* interests; and
 - (d) the charges made to a *customer* in connection with a *firm entering into* or making a further advance on a *regulated mortgage contract* or *administering a regulated mortgage contract*, or *arranging or advising on a regulated mortgage contract* or a variation to the terms of a *regulated mortgage contract* are excessive.

12.3 Early repayment charges

Early repayment charges to be expressed as cash and to be reasonable

- 12.3.1 R A *firm* must ensure that any *regulated mortgage contract* that it *enters into* does not impose, and cannot be used to impose, an *early repayment charge* other than one that is:

- (1) able to be expressed as a cash value; and

- (2) a reasonable pre-estimate of the costs as a result of the *customer* repaying the amount due under the *regulated mortgage contract* before the contract has terminated.

12.3.2 G A *firm* can choose the method it employs for calculating *early repayment charges* in accordance with MCOB 12.3.1R. A *firm* should not use the ‘Rule of 78’ (as contained in Schedule 2 of the Consumer Credit (Rebate on Early Settlement) Regulations 1983), which is not appropriate as it effectively overstates the cost to the *mortgage lender*.

12.3.3 G A *firm* may calculate the same level of *early repayment charge* for all *regulated mortgage contracts* of a similar type (for example a tranche of *regulated mortgage contracts* offering a particular fixed rate of interest), rather than on the basis of the individual *regulated mortgage contract* with the particular *customer*.

Early repayment charges to be disclosed in illustrations

12.3.4 R Before:

- (1) *entering into a regulated mortgage contract with a customer;*
or
- (2) *making a further advance on an existing regulated mortgage contract;* or
- (3) *changing all or part of a regulated mortgage contract from one type of interest rate to another;*

a *firm* must disclose to the *customer*:

- (a) in the *illustration* provided in accordance with MCOB 5, MCOB 7.6.7R, 7.6.18R, 7.6.22R, 7.6.31R, or MCOB 9; and
- (b) in the *illustration* provided as part of the *offer document* in accordance with MCOB 6.4.1R(1) and MCOB 9.5;

the maximum amount payable as an *early repayment charge* in respect of that *regulated mortgage contract*, if an *early repayment charge* applies.

12.4 Arrears charges

12.4.1 R (1) A *firm* must ensure that any *regulated mortgage contract* that it *enters into* does not impose, and cannot be used to impose, a charge for *arrears* on a *customer* except

where that charge is a reasonable estimate of the cost of the as a result of the individual rules above, additional administration required as a result of the *customer* being in *arrears*.

(2) Paragraph (1) does not prevent a *firm* from *entering into a regulated mortgage contract* with a *customer* under which the *firm* may change the rate of interest charged to the *customer* from a fixed or discounted rate of interest to the *firm's* standard variable rate if the *customer* goes into *arrears*, providing that this standard variable rate is not a rate created especially for *customers* in *arrears*.

12.4.2 G A *firm* may calculate the same level of *arrears* charges for all *regulated mortgage contracts* where the *customer* is in *arrears*, rather than on the basis of the individual *regulated mortgage contract* with the particular *customer*.

12.4.3 G *Firms* are also subject to requirements on information provision and standards relating to *arrears* and *repossessions* (see *MCOB 13* (*Arrears and repossessions*)).

12.5 Excessive charges

12.5.1 R A *firm* must ensure that any *regulated mortgage contract* that it *enters into* does not impose, and cannot be used to impose, excessive charges upon a *customer*.

12.5.2 R A *firm* must ensure that its charges to a *customer* in connection with the *firm entering into* or making a further advance on a *regulated mortgage contract* or *administering a regulated mortgage contract* or *arranging or advising on a regulated mortgage contract* or a variation to the terms of a *regulated mortgage contract* are not excessive.

12.5.3 G When determining whether a charge is excessive, a *firm* should consider:

- (1) the amount of its charges for the services or products in question compared with charges for similar products or services on the market;
- (2) the degree to which the charges are an abuse of the trust that the *customer* has placed in the *firm*; and
- (3) the nature and extent of the disclosure of the charges to the *customer*.

12.5.4 G *Firms* are also subject to requirements relating to responsible lending (see *MCOB 11*).

12.6

Business loans

- 12.6.1 G *Firms* are reminded that, in relation to a *regulated mortgage contract* for a business purpose 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 ARREARS AND REPOSSESSIONS

13.1 Application

Who?

13.1.1 R This chapter applies to a *firm* in a category listed in column (1) of the table in *MCOB 13.1.2R* in accordance with column (2) of that table.

13.1.2 R Table

This table belongs to *MCOB 13.1.1R*

(1) Category of firm	(2) Applicable section
<i>mortgage lender, and a firm that was a mortgage lender before the sale of a repossessed property</i>	<i>MCOB 13.1-13.3 , except for 13.3.9R and 13.3.10G</i>
<i>mortgage administrator, and a firm that was a mortgage administrator before the sale of a repossessed property</i>	whole chapter

What?

13.1.3 R This chapter applies with respect to *administering a regulated mortgage contract* and *administering a mortgage shortfall debt*.

13.1.4 R The requirements in *MCOB 13* will continue to apply to a *firm* after a *regulated mortgage contract* has come to an end following the sale of a *repossessed property*. References in this chapter to “*customer*” will include references to a former *customer* as appropriate.

13.1.5 G The *FSA* expects a *firm* to treat a *mortgage shortfall debt* in the same way that it treats a payment shortfall.

13.1.6 G A *firm* may have entered into a mix of *regulated mortgage contracts* and *non-regulated mortgage contracts* with a *customer* secured on the same property. In such circumstances, if the *regulated mortgage contract* is in *arrears*, notwithstanding that the overall position in respect of the mortgages generally is not in *arrears*, the *firm* will need to comply with all the requirements of *MCOB 13* in respect to the *regulated mortgage contract*. Where this involves providing the *customer* with information, a *firm* should explain, if it is the case, that whilst the overall position on the mortgages is not in *arrears*, no action will be taken in respect of the *regulated mortgage contract*.

13.1.7 G If a *firm* has entered into more than one *regulated mortgage contract* with the same *customer* secured on the same property, the *firm* may treat all of the *regulated mortgage contracts* as one for the purposes of MCOB 13.

13.2 Purpose

13.2.1 G *Principle 6* requires a *firm* to pay due regard to the interests of *customers* and treat them fairly. This chapter amplifies this principle in respect of the information and service provided to *customers* who have payment difficulties or face a *mortgage shortfall debt*.

13.2.2 G There may be occasions where a *customer* enters into a *regulated mortgage contract* with no intention of meeting his payment obligations. Where the intention is to defraud, this chapter does not prevent early action to recover the debt.

13.3 Dealing fairly with customers in arrears: policy and procedures

- 13.3.1 R
- (1) A *firm* must deal fairly with any *customer* who:
 - (a) is in *arrears* on a *regulated mortgage contract*; or
 - (b) has a *mortgage shortfall debt*.
 - (2) A *firm* must put in place, and operate in accordance with, a written policy (agreed by its respective *governing body*) and procedures for complying with (1).

Policy and procedures: content

- 13.3.2 E
- (1) A *firm* should ensure that its written policy and procedures include:
 - (a) using reasonable efforts to reach an agreement with a *customer* over the method of repaying any payment shortfall or *mortgage shortfall debt*, in the case of the former having regard to the desirability of agreeing with the *customer* an alternative to taking possession of the property;
 - (b) liaising, if the *customer* makes arrangements for this, with a third party source of advice regarding the payment shortfall or *mortgage shortfall debt*;
 - (c) adopting a reasonable approach to the time over which the payment shortfall or *mortgage shortfall debt* should be repaid, having particular regard to the need to establish, where feasible, a payment plan which is practical in terms of the circumstances of the *customer*;

- (d) **granting, unless it has good reason not to do so, a *customer's* request for a change to:**
 - (i) **the date on which the payment is due (providing it is within the same payment period); or**
 - (ii) **the method by which payment is made;****and giving the *customer* a written explanation of its reasons if it refuses the request;**
- (e) **giving consideration, where no reasonable payment arrangement can be made, to the *customer* being allowed to remain in possession to effect a sale; and**
- (f) ***repossessing* the property only where all other reasonable attempts to resolve the position have failed.**

(2) Contravention of *MCOB* 13.3.2E(1) may be relied on as tending to show contravention of *MCOB* 13.3.1R(2).

13.3.3 G The requirement in *MCOB* 13.3.1R(2) for a written policy and procedures is intended to ensure that a *firm* has addressed the need for internal systems to deal fairly with any *customer* in financial difficulties. *MCOB* 13.3.1R(2) does not oblige a *firm* to provide *customers* with a copy of the written policy and procedures. Nor, however, does it prevent a *firm* from providing *customers* with either these documents or a more *customer*-orientated version.

13.3.4 G In relation to *MCOB* 13.3.2E(1)(a), *customers*:

- (1) should be given a reasonable period of time to consider any proposals for payment that are put to them; in addition, and depending on the individual circumstances, a *firm* may wish to do one or more of the following with the agreement of the *customer*:
 - (a) extend the term of the *regulated mortgage contract*; or
 - (b) change the type of the *regulated mortgage contract*; or
 - (c) defer payment of interest due on the *regulated mortgage contract* or *mortgage shortfall debt*; or
 - (d) treat the payment shortfall as if it was part of the original amount borrowed;
- (2) should be given adequate information to understand the implications of any proposed arrangement; one approach may

be to provide information on the new terms in line with the requirements for annual statements (see *MCOB 7.5.3R*).

- 13.3.5 G *MCOB 13.3.2E(1)(a)* means that a *firm* should not automatically capitalise *arrears*.
- 13.3.6 G In relation to *MCOB 13.3.2E(1)(c)*, the *FSA* takes the view that the determination of a reasonable repayment period will depend upon the individual circumstances. In appropriate cases this will mean that repayments are arranged over the remaining term of the *regulated mortgage contract*.
- 13.3.7 G In relation to *MCOB 13.3.2E(1)(d)*, a term in a *regulated mortgage contract* that purported to allow a *firm* to change the payment date unilaterally might in any event contravene the *Unfair Terms Regulations*.
- 13.3.8 G *Firms* that propose to outsource aspects of *customer* relationships (including debt collection) should note that, as set out in *SYSC 3.2.4G(1)*, the *FSA* will continue to hold them responsible for the way in which this work is carried on.

Record keeping: arrears and repossessions

- 13.3.9 R (1) **A *firm* must make and retain an adequate record of its dealings with a *customer* whose account is in *arrears* or who has a *mortgage shortfall debt*, which will enable the *firm* to show its compliance with *MCOB 13.4* (Arrears: provision of information to the customer), *MCOB 13.5* (Dealing with a customer in arrears or with a mortgage shortfall debt) and *MCOB 13.6* (Repossessions).**
- (2) **A *firm* must retain the record required by (1) for a year from the date on which the relevant payment shortfall or mortgage shortfall debt was cleared.**
- 13.3.10 G The record referred to in *MCOB 13.3.9R* should contain, or provide reference to, matters such as:
- (1) the date of first communication with the *customer* after the account was identified as being in *arrears*;
 - (2) in relation to correspondence issued to a *customer* in *arrears*, the name and contact number of the employee dealing with that correspondence, where known;
 - (3) the basis for issuing tailored information in accordance with *MCOB 13.7.1R*;
 - (4) information relating to any new payment arrangements proposed;

- (5) the date of issue of any legal documents;
 - (6) the arrangements made for sale after the *repossession* (whether legal or voluntary); and
 - (7) the date of any communication summarising the *customer's* outstanding debt after sale of the *repossessed* property.
- 13.3.11 G For details of the standard expected of *firms* in relation to maintaining records, see *MCOB 2.8* (Record keeping)
- 13.4 Arrears: provision of information to the customer**
- 13.4.1 R **If a *customer* falls into *arrears* on a *regulated mortgage contract*, a *firm* must as soon as possible, and in any event within 15 *business days* of becoming aware of that fact, provide the *customer* with the following in a *durable medium*:**
- (1) the current *FSA* information sheet on mortgage arrears;
 - (2) a list of the due payments either missed or only paid in part;
 - (3) the total sum of the payment shortfall;
 - (4) the charges incurred as a result of the payment shortfall;
 - (5) the total outstanding debt, excluding charges that may be added on redemption; and
 - (6) an indication of the nature (and where possible the level) of charges the *customer* is likely to incur unless the payment shortfall is cleared.
- 13.4.2 G (1) The current *FSA* information sheet on mortgage arrears is available on the *FSA* website, www.fsa.gov.uk; copies can also be obtained from the *FSA*.
- (2) In the event of the *FSA* making any changes to the information sheet, at least three months' notice of the changes will be given on the *FSA* website.
- 13.4.3 G (1) A *firm* may provide the information in *MCOB 13.4.1R*(2), (3), (4), (5) and (6) orally, for example, by telephone, but must provide the information in a *durable medium* with a copy of the *FSA* information sheet on mortgage arrears within 15 *business days* of becoming aware of the *customer's* account falling into *arrears*.
- (2) Where a *firm* provides the information in *MCOB 13.4.1R* when a payment shortfall occurs but before the *customer's* account falls into *arrears*, it need not repeat the provision of the

information in *MCOB* 13.4.1R when the *customer's* account falls into *arrears*.

Customers in arrears within the past 12 months

- 13.4.4 R If a *customer's* account has previously fallen into *arrears* within the past 12 months (and at that time the *customer* received the disclosure required by *MCOB* 13.4.1R), the *arrears* have been cleared and the *customer's* account falls into *arrears* on a subsequent occasion a *firm* must either:
- (1) issue a further disclosure in compliance with *MCOB* 13.4.1R; or
 - (2) provide a statement, in a *durable medium*, of the payments due, the actual payment shortfall, any charges incurred and the total outstanding debt excluding any charges that may be added on redemption, together with information as to the consequences, including *repossession*, if the payment shortfall is not cleared.

Steps required before action for repossession

- 13.4.5 R Before commencing action for *repossession*, a *firm* must:
- (1) provide a written update of the information required by *MCOB* 13.4.1R(2), (3), (4), (5) and (6);
 - (2) ensure that the *customer* is informed of the need to contact the local authority to establish whether the *customer* is eligible for local authority housing after his property is *repossessed*; and
 - (3) clearly state the action that will be taken with regard to *repossession*.

13.5 Dealing with a customer in arrears or with a mortgage shortfall debt

Statements of charges

- 13.5.1 R Where an account is in *arrears*, and the payment shortfall or *mortgage shortfall debt* is attracting charges, a *firm* must provide the *customer* with a regular written statement (at least once a quarter) of the payments due, the actual payment shortfall, the charges incurred and the debt.
- 13.5.2 G (1) For the purpose of *MCOB* 13.5.1R, charges that trigger the requirement for regular statements include all charges and fees levied directly as a result of the account falling into *arrears*. This includes charges such as monthly administrative charges, legal fees and interest. If interest is applied to the amount of the

arrears, as it is applied to the rest of the mortgage, a *firm* need not send a written statement, unless other charges are also being made. If interest is applied to the amount of the *arrears* in a different manner to the rest of the mortgage then a written statement will be required.

- (2) In determining the frequency for providing statements in accordance with *MCOB* 13.5.1R, a *firm* should have regard to the application of new charges and the number of transactions on the *customer's* account.
- (3) If an account in *arrears* is subject to a payment plan agreed between a *firm* and a *customer*, and the account is operating in accordance with that plan, the *firm* will still need to send the *customer* a written statement in accordance with *MCOB* 13.5.1R if the payment shortfall or *mortgage shortfall debt* is attracting charges.
- (4) Information provided should cover the period since the last statement. *Firms* may use the annual statement to comply with *MCOB* 13.5.1R, in which case the annual statement will need to be supplemented to include the actual payment shortfall.

Pressure on customers

- 13.5.3 **R** **A *firm* must not put pressure on a *customer* through excessive telephone calls or correspondence, or by contact at an unreasonable hour.**
- 13.5.4 G In *MCOB* 13.5.3R, a reasonable hour will usually fall between 8am and 9pm. *Firms* should also have regard to the circumstances of the *customer* and any knowledge they have of the *customer's* work pattern or religious faith which might make it unreasonable to contact the *customer* during these hours.
- 13.5.5 G In *MCOB* 13.5.3R, putting pressure on a *customer* includes:
- (1) the use of documents which resemble a court summons or other official document, or are intended to lead the *customer* to believe that they come from or have the authority of a court (which might in any event constitute a criminal offence under the County Courts Act 1984 or section 40 of The Administration of Justice Act 1970); and
 - (2) the use of documents containing unfair, unclear or misleading information intended to coerce the *customer* into paying. A *firm* should also have regard to Section 1 of the Malicious Communications Act 1988 which establishes a criminal offence in respect of letters sent which convey a threat or false information with intent to cause distress or anxiety.

13.5.6 G In relation to *MCOB* 13.5.3R, a *firm* should also have regard to the general law, including the Data Protection Act 1998, on the disclosure of information to third parties.

13.6 Repossessions

Marketing a repossessed property

13.6.1 R A *firm* must ensure that, whenever a property is *repossessed* (whether voluntarily or through legal action) and it administers the *regulated mortgage contract* in respect of that property, steps are taken to:

- (1) market the property for sale as soon as possible; and
- (2) obtain the best price that might reasonably be paid, taking account of factors such as market conditions as well as the continuing increase in the amount owed by the *customer* under the *regulated mortgage contract*.

13.6.2 G In *MCOB* 13.6.1R it is recognised that a balance has to be struck between the need to sell the property as soon as possible, to reduce or remove the outstanding debt, and other factors which may prompt the delay of the sale. These might include market conditions (explicitly referred to in *MCOB* 13.6.1R(2)) but there may be other legitimate reasons for deferring action. This could include the expiry of a period when a grant is repayable on re-sale, or the discovery of a title defect that needs to be remedied if the optimal selling price is to be achieved.

If the proceeds of sale are less than the debt

13.6.3 R A *firm* must ensure that, as soon as possible after the sale of a *repossessed* property, if the proceeds of sale are less than the amount of the *customer's* debt, the *customer* is informed in a *durable medium* of:

- (1) the *mortgage shortfall debt*; and
- (2) where relevant, the fact that the *mortgage shortfall debt* may be pursued by another company (for example, a mortgage indemnity insurer).

13.6.4 R (1) If the decision is made to recover the *mortgage shortfall debt*, the *firm* must ensure that the *customer* is notified of this intention.

(2) The notification referred to in (1) must take place within five years of the date of the sale (if the *regulated mortgage contract* is subject to Scottish law) or within six years (in all other cases).

13.6.5 G *MCOB 13.6.4R* does not require a *firm* to recover a *mortgage shortfall debt*. A *firm* may not wish to recover the *mortgage shortfall debt* in some situations, for example where the sums involved make action for recovery unviable.

If the proceeds of sale are more than the debt

13.6.6 R A *firm* must ensure that, on the sale of a *repossessed* property, if the proceeds of sale are more than the amount of the *customer's* debt, reasonable steps are taken, as soon as possible after the sale, to inform the *customer* in a *durable medium* of the surplus and, subject to the rights of any subsequent mortgage or charge holders, to pay it to him.

13.7 Business loans

13.7.1 Where the *regulated mortgage contract* is for a business purpose, a *firm* may as an alternative to *MCOB 13.4.1R(1)* provide the following information in a *durable medium* instead of the *FSA* information sheet on mortgage arrears:

- (a) details of the consequences if the payment shortfall is not cleared;
- (b) a description of the options available to the *customer* for clearing the payment shortfall; and
- (c) details of sources of fee-free advice for business *customers*.

Mortgages: Conduct of Business

Schedule 1

Record keeping requirements

G

- 1 The aim of the *guidance* in the following table is to give the reader a quick overall view of the relevant record keeping requirements.
- 2 It is not a complete statement of those requirements and should not be relied on as if it were.
- 3 Table

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
<i>MCOB 3.10.1R</i>	<i>Each non-real time financial promotion</i>	Name of individual who confirmed compliance or approved the <i>financial promotion</i>, and the date of confirmation	Date of confirmation or approval	One year from the date on which the <i>promotion</i> was last <i>communicated</i>
<i>MCOB 3.10.2G(2) to (5)</i>	<i>Each non-real time financial promotion</i>	Details of: the medium for which the <i>qualifying credit promotion</i> was authorised; evidence supporting a material factual statement; evidence to show that any typical APR was representative of business	Date of confirmation or approval	One year from the date on which the <i>promotion</i> was last <i>communicated</i>
<i>MCOB 3.10.3G(1)</i>	<i>Each non-real time financial promotion</i>	A copy of the <i>qualifying credit promotion</i> as finally published	Date of confirmation or approval	One year from the date on which the <i>promotion</i> was last <i>communicated</i>

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
<i>MCOB 4.7.17R(1)(a)</i>	Suitability	Details of the customer information obtained, including the <i>customer's</i> needs and circumstances, for the purpose of assessing the suitability of a <i>regulated mortgage contract</i>	When the personal recommendation is made	Three years
<i>MCOB 4.7.17R(1)(b)</i>	Suitability	An explanation of the reasons why the <i>firm</i> believes the personal recommendation complies with suitability requirements in <i>MCOB 4.5.4R(1)</i>	When the personal recommendation is made	Three years
<i>MCOB 4.7.17R(1)(b)</i>	Suitability	An explanation of the reasons why a personal recommendation has been made on a basis other than that described in <i>MCOB 4.5.13E(1)</i>	When the personal recommendation is made	Three years
<i>MCOB 4.8.7R</i>	Scripted questions	A record of the scripted questions used in non-advised sales	The date on which the scripted questions are first used	One year from the date on which the scripted questions are superseded by a more up-to-date record
<i>MCOB 4.6.12R</i>	Notice of cancellation	A record of the fact that notice has been given (including the original notice instructions and a copy of any receipt of notice issued)	When the <i>firm</i> first becomes aware that notice has been served	Three years

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
MCOB 5.4.19R	Each <i>illustration</i> a <i>firm</i> issues to a <i>customer</i> where the <i>customer</i> applies for that particular <i>regulated mortgage contract</i>	The Key facts illustrations (KFI) issued	The date the <i>customer</i> applies for the particular <i>regulated mortgage contract</i>	One year
MCOB 5.4.21G	Each KFI retained	Detail of: the date the KFI was issued; the date on which the <i>customer</i> applied for the <i>regulated mortgage contract</i> ; and the medium through which the KFI was issued	The date the <i>customer</i> applies for the particular <i>regulated mortgage contract</i>	One year
MCOB 6.4.2R(1)	<i>Offer document</i>	Each <i>offer document</i> issued to the <i>customer</i>	The date on which the <i>firm</i> issues the <i>offer document</i> to the <i>customer</i>	One year
MCOB 6.4.2R(2)	Tariff of charges	A copy of the tariff of charges issued with, or as part of the <i>offer document</i>	The date on which the <i>firm</i> issues the tariff of charges to the <i>customer</i>	One year
MCOB 6.4.2R(2)	Supplemental information relating to <i>mortgage credit cards</i>	Information explaining that rights associated with a traditional credit card do not apply,	The date on which the <i>firm</i> issues the information to the <i>customer</i>	One year

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
<p>MCOB 7.4.2R</p>	<p>Start of contract disclosure</p>	<p>The amount of the first and subsequent payments; the date and method of collection of the first and subsequent payments; details of insurance products and any repayment vehicle purchased through the <i>firm</i>, of the first premium payable and whether this is to be collected with the mortgage payment; detail of the repayment method, and if interest only a reminder to the <i>customer</i> to maintain a suitable repayment vehicle; what to do if the account falls into <i>arrears</i>; information about linked borrowing or savings available and whether or not overpayments or underpayments are permitted.</p>	<p>The date on which the firm issues the information to the customer</p>	<p>One year</p>

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
MCOB 7.6.34R	Illustrations required on event-driven changes to the contract	A copy of the <i>illustration</i> issued for further advances requiring authorisation; rate switches and the removal or addition of a party to the contract	When the <i>illustration</i> is issued	One year
MCOB 8.5.22R(1)(a)	Suitability	Details of the customer information obtained, including the <i>customer's</i> needs and circumstances, for the purpose of assessing the suitability of a <i>regulated lifetime mortgage contract</i>	When the personal recommendation is made	Three years
MCOB 8.5.22R(1)(b)	Suitability	An explanation of the reasons why the <i>firm</i> believes the personal recommendation complies with suitability requirements in MCOB 8.5.4R(1)	When the personal recommendation is made	Three years
MCOB 8.5.22R(1)(b)	Suitability	An explanation of the reasons why a personal recommendation has been made on a basis other than that described in <i>MCOB 8.5.17E(1)</i>	When the personal recommendation is made	Three years

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
<i>MCOB 8.3.1R(1)</i>	Scripted questions	A record of the scripted questions used in non-advised sales	The date on which the scripted questions are first used	One year from the date on which the scripted questions are superseded by a more up-to-date record
<i>MCOB 8.3.1R(1)</i>	Notice of cancellation	A record of the fact that notice has been given (including the original notice instructions and a copy of any receipt of notice issued)	When the <i>firm</i> first becomes aware that notice has been served	Three years
<i>MCOB 9.3.1R</i>	Each <i>illustration</i> a <i>firm</i> issues to a <i>customer</i> where the <i>customer</i> applies for that particular <i>regulated lifetime mortgage contract</i>	The Key facts illustrations (KFI) issued	The date the <i>customer</i> applies for the particular <i>regulated lifetime mortgage contract</i>	One year
<i>MCOB 9.3.1R</i>	Each KFI retained	Detail of: the date the KFI was issued; the date on which the <i>customer</i> applied for the <i>regulated lifetime mortgage contract</i> ; and the medium through which the KFI was issued	The date the <i>customer</i> applies for the particular <i>regulated lifetime mortgage contract</i>	One year
<i>MCOB 9.5.2R</i>	<i>Offer document</i>	Each <i>offer document</i> issued to the <i>customer</i>	The date on which the <i>firm</i> issues the <i>offer document</i> to the <i>customer</i>	One year

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
<i>MCOB 9.5.2R</i>	Tariff of charges	A copy of the tariff of charges issued with, or as part of the offer document	The date on which the <i>firm</i> issues the tariff of charges to the <i>customer</i>	One year
<i>MCOB 9.5.2R</i>	Supplemental information relating to <i>mortgage credit cards</i>	Information explaining that rights associated with a traditional credit card do not apply	The date on which the firm issues the information to the <i>customer</i>	One year

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
MCOB 9.7.10R	Start of contract disclosure where interest payments are required	The amount of the first and subsequent payments; the date, frequency and method of collection of the first and subsequent payments; the net amount the <i>customer</i> will receive where interest is deducted from income and the method by which this will be paid; details of insurance products purchased through the <i>firm</i> , of the first premium payable and whether this is to be collected with the mortgage payment; confirmation that the <i>regulated lifetime mortgage contract</i> is on an interest-only basis and details of how the firm expects the capital to be repaid; what to do if the account falls into <i>arrears</i> ; information about linked borrowing or savings available and whether or not overpayments or underpayments are permitted.	The date on which the <i>firm</i> issues the information to the customer	One year

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
MCOB 9.6.1R	<i>Illustrations required on event-driven changes to the contract</i>	A copy of the illustration issued for further advances requiring authorisation; rate switches and the removal or addition of a party to the contract	When the <i>illustration</i> is issued	One year
MCOB 9.7.10R	Start of contract disclosure for a drawdown mortgage with fixed payments to the <i>customer</i>	The amount of the first and subsequent payments; the date of issue and method of the payment of the first and subsequent payments; details of insurance products purchased through the <i>firm</i>, and of the first and subsequent premiums and the method and date of collection; details of how the firm expects the capital and interest to be paid; information about linked borrowing or savings available and whether or not repayments are permitted	The date on which the firm issues the information to the customer	One year

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
<i>MCOB 9.7.10R</i>	Start of contract disclosure for a drawdown mortgage without fixed payments to the <i>customer</i>	Where the <i>customer</i> can choose the frequency of the payment, details of the limitations on frequency and amount of payments; where payments can vary for any other reasons, details of the amount of the first payment and how subsequent payments can vary; the method by which payments will be made; details of insurance products purchased through the <i>firm</i> , and of the first and subsequent premiums and the method and date of collection; details of how the firm expects the capital and interest to be paid; information about linked borrowing or savings available and whether or not repayments are permitted	The date on which the <i>firm</i> issues the information to the <i>customer</i>	One year

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
MCOB 9.7.10R	Start of contract disclosure where a lump sum payment to the <i>customer</i> is made and interest is rolled up	Confirmation if appropriate that no payments are required and details of how the <i>firm</i> expect capital and interest to be paid; if payments are to be made, the amount, frequency and method of collection of the first and subsequent payments; what to do in the case of arrears; details of insurance products purchased through the <i>firm</i> , and of the first and subsequent premiums and the method and date of collection; details of how the <i>firm</i> expects the capital and interest to be paid; information about linked borrowing or savings available and whether or not repayments are permitted	The date on which the firm issues the information to the customer	One year
MCOB 11.3.1R(2)	Ability of the <i>customer</i> to repay <i>advance</i>	Evidence to demonstrate that the <i>firm</i> has taken into account the <i>customer's</i> ability to repay	When the assessment of the <i>customers</i> ability to repay is made	One year from the date on which the <i>regulated mortgage contract</i> is entered into, or the further advance provided

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
<i>MCOB 11.3.4R(2)</i>	Responsible lending policy	A record of the <i>firm's</i> written policy setting out the factors the <i>firm</i> will take into account in assessing the <i>customer's</i> ability to repay	The date on which the policy is set	One year from the date on which the policy is replaced
<i>MCOB 13.3.9</i>	Dealings with <i>customers</i> in <i>arrears</i> or with a <i>mortgage shortfall debt</i>	Details of all <i>communication</i> with the <i>customer</i>; information relating to any repayment plan; date of issue of any legal proceedings; arrangements made for sale of a <i>repossessed</i> property; and the basis of any tailored information where the loan is for a business purpose.	The date on which the <i>customer's</i> account first falls into <i>arrears</i>	One year from the date on which the relevant payment shortfall or <i>mortgage shortfall debt</i> is cleared

Mortgages: Conduct of Business

Schedule 2

Notification requirements

G

- 1 There are no notification requirements in *MCOB*.

Mortgages: Conduct of Business

Schedule 3

Fees and other required payments

G

- 1 There are no requirements for fees or other payments in *MCOB*.

Mortgages: Conduct of Business

Schedule 4

Powers exercised

G

1 Table Powers exercised

The following powers and related provisions in or under the *Act* have been exercised by the *FSA* to make the *rules* in *MCOB*:

section 138 (General rule-making power)

section 139 (Miscellaneous ancillary matters)

section 145 (Financial promotion rules)

section 149 (Evidential provisions)

section 156 (General supplementary powers)

The following powers in the *Act* have been exercised by the *FSA* to give the *guidance* in *MCOB*:

section 157(1) (Guidance)

Mortgages: Conduct of Business

Schedule 5

Rights of action for damages

5 Rights of actions for damages

G

The table below sets out the *rules* in *MCOB* contravention of which by an *authorised person* may be actionable under section 150 of the *Act* (Actions for damages) by a *person* who suffers loss as a result of the contravention.

If a "Yes" appears in the column headed "For private person?", the *rule* may be actionable by a "*private person*" under section 150 (or, in certain circumstances, his fiduciary or representative; see article 6(2) and (3)(c) of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 (SI 2001 No 2256)). A "Yes" in the column headed "Removed" indicates that the *FSA* has removed the right of action under section 150(2) of the *Act*. If so, a reference to the *rule* in which it is removed is also given.

The column headed "For other person?" indicates whether the *rule* may be actionable by a *person* other than a *private person* (or his fiduciary or representative) under article 6(2) and (3) of those Regulations. If so, an indication of the type of *person* by whom the *rule* may be actionable is given.

1

Chapter/ Appendix	Section/ Annex	Paragraph	Right of action under section 150		
			For private person?	Removed?	For other person?
		All <i>rules</i> in <i>MCOB</i> with the status letter "E"	No	No	No
		Any <i>rule</i> in <i>MCOB</i> which prohibits an <i>authorised person</i> from seeking to make provision excluding or restricting any duty or liability	Yes	No	Yes Any other <i>person</i>
		All other <i>rules</i> in <i>MCOB</i>	Yes	No	No

Mortgages: Conduct of Business

Schedule 6

Rules that can be waived

G

- 1 The *rules* in *MCOB* may be waived by the *FSA* under section 148 of the *Act* (Modification or waiver of rules).