Chapter 7

Disclosure at start of contract and after sale

7.6 Mortgages: 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 7.6.2 R) 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 7.6.2 R 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 7.6.2 R and ■ MCOB 7.6.3 R 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 7.6.5 R 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 either

(1) an *illustration* that complies with the requirements of ■ MCOB 5 (Pre-application disclosure) and ■ MCOB 7.6.9R to ■ MCOB 7.6.17R; or

(2) an *ESIS* that complies with ■ MCOB 5A (*MCD* pre-application disclosure) and ■ MCOB 7B.1.4R (*MCD*: further advances);

unless:

(3) such an *illustration* or *ESIS* has already been provided; or

(4) the *regulated mortgage contract* is for a business purpose and the *firm* has chosen to comply with the tailored provisions for *regulated mortgage contracts* for a business purpose; or

(5) the *regulated mortgage contract* is with a *high net worth mortgage customer* and the *firm* has chosen to comply with the tailored provisions for loans to *high net worth mortgage customers*;

(see ■ MCOB 7.7 (Business loans and loans to high net worth mortgage customers: tailored provisions)).

7.6.8 G If a number of different *firms* are involved in relation to the transaction referred to in ■ MCOB 7.6.7 R, having regard to ■ MCOB 2.5.4 R(2), those *firms* should take reasonable steps to establish which one of them is responsible for providing the *customer* with the *illustration* or *ESIS* required by ■ MCOB 7.6.7 R.

7.6.9 R An *illustration* provided in accordance with ■ MCOB 7.6.7R(1) 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 strategy*, 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 7.6.9 R(1), a *firm* should calculate the *APR* required by ■ MCOB 5.6.34 R on the basis of the further advance amount only.

7.6.11 G For the purposes of ■ MCOB 7.6.9 R(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 5.6.40 R; 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 7.6.9 R(3) is in ■ MCOB 7 Annex 1.

7.6.13 R Where not all of the mortgage interest rates described in accordance with ■ MCOB 5.6.25 R(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 7.6.9 R(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 (1) The *illustration* provided in accordance with ■ MCOB 7.6.7R(1) may diverge from the requirements of ■ MCOB 5 (Pre-application disclosure) where it is necessary to do so in order to reflect the fact that the *illustration* is being provided for a further advance.

(2) The *ESIS* provided under ■ MCOB 7.6.7R(2) may diverge from the requirements of ■ MCOB 5A where it is necessary to do so to reflect that the *ESIS* is being provided for a further advance.

7.6.15 G ■ MCOB 7.6.14 R 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 5.6.16 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 Conduct Authority (FCA) - the independent watchdog that regulates financial services - to provide you with this illustration.' "

(2) (In the case of any other *illustration*), ■ 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 Conduct Authority (FCA) - 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* or *ESIS* in accordance with ■ MCOB 7.6.7 R, provide confirmation of the matters required by ■ MCOB 7.6.5 R; 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 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 either:

(1) an *illustration* for the whole loan that complies with the requirements of ■ MCOB 5 (Pre-application disclosure); or

(2) an *ESIS* for the whole loan that complies with the requirements of ■ MCOB 5A (MCD Pre-application disclosure),

unless such an *illustration* or *ESIS* 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 7.6.18 R, having regard to ■ MCOB 2.5.4 R(2), those *firms* should take reasonable steps to establish which one of them is responsible for providing the *customer* with the *illustration* or *ESIS* required by ■ MCOB 7.6.18 R.

7.6.20 R (1) The *illustration* provided in accordance with ■ MCOB 7.6.18 R may diverge from the requirements of ■ MCOB 5 where it is necessary to do so to reflect the fact that the *illustration* is being provided for a rate switch.

(2) The *ESIS* provided under ■ MCOB 7.6.18R (2) may diverge from the requirements of ■ MCOB 5A where it is necessary to do so to reflect that the *ESIS* is being provided for a rate switch.

7.6.21 G ■ MCOB 7.6.20R (1) and ■ (2) allow a *firm* to make changes to wording and to add, remove or alter information that would otherwise be misleading to the *customer*. For example, a *firm* could replace the statement in Section 3 of the *illustration*, explaining that if information provided by the *customer* changes, the *illustration* may be affected, with a statement explaining that the *illustration* is based on information gathered in the past, which may no longer be accurate.

Switch to a retirement interest-only mortgage

7.6.21A R Where a *firm* proposes to vary the term of a *regulated mortgage contract* so that it becomes a *retirement interest-only mortgage*:

(1) ■ MCOB 7.6.18R to ■ MCOB 7.6.21G apply as though references to a rate switch were references to such a contract variation; and

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

Addition or removal of a party to the contract

7.6.22 R Before a *customer* submits an application to add or remove a party to a *regulated mortgage contract*, a *firm* must provide any *customer* who will remain or become a party to the contract with either:

(1) an *illustration* for the whole loan that complies with the requirements of ■ MCOB 5 (Pre-application disclosure); or

(2) an *ESIS* for the whole loan which complies with the requirements of ■ MCOB 5A (MCD Pre-application disclosure).

7.6.23 G The *FCA* would not view:

(1) a simple notification of the death of a party to the *regulated mortgage contract* as an application for the purposes of ■ MCOB 7.6.22 R; or

(2) a guarantor as a party to a *regulated mortgage contract*;

so ■ MCOB 7.6.22 R does not mean that someone becoming a surviving joint borrower on or a guarantor to the *regulated mortgage contract* should receive an *illustration*.

7.6.24 G If a number of different *firms* are involved the transaction referred to in ■ MCOB 7.6.22 R, having regard to ■ MCOB 2.5.4 R(2), those *firms* should take reasonable steps to establish which one of them is responsible for providing the *customer* with the *illustration* or *ESIS* required by ■ MCOB 7.6.22 R.

7.6.25 R (1) The *illustration* provided in accordance with ■ MCOB 7.6.22 R may diverge from the requirements of ■ MCOB 5 (Pre-application disclosure) where it is necessary to do so to reflect the fact that the *illustration* is being provided in respect of the addition or removal of a party to the contract.

(2) The *ESIS* provided under ■ MCOB 7.6.22R (2) may diverge from the requirements of ■ MCOB 5A (MCD Pre-application disclosure) where it is necessary to do so to reflect that the *ESIS* is being provided for the addition or removal of a party to the contract.

7.6.26 G ■ MCOB 7.6.25R (1) and ■ (2) allow 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 [deleted]

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 7.6.7 R to ■ MCOB 7.6.26 G) that changes the amount of each payment due, a *firm* must provide the *customer* with the following information, in a single communication (subject to ■ MCOB 7.6.28AR (3)), 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 new payments on this mortgage with your previous payments, 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*.

7.6.28A R

(1) ■ MCOB 7.6.28 R (5) does not apply where the *regulated mortgage contract* is changing to an *interest-only mortgage* and interest is being deferred and capitalised by the *firm* as a result of the *customer* having payment difficulties.

(2) Where (1) applies, the *firm* must instead provide a prominent reminder to the *customer* of the amount outstanding together with an explanation of the implications of deferred payments being capitalised, before the change in the *regulated mortgage contract* takes effect.

(3) The reminder in (2) may be provided in a separate communication.

7.6.29 G

Examples of where ■ MCOB 7.6.28 R 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 7.6.28 R, having regard to ■ MCOB 2.5.4 R(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 7.6.28 R.

Use of illustrations or ESISs in place of information under MCOB 7.6.28R

7.6.31 R

Where ■ MCOB 7.6.28 R applies, a *firm* may issue either:

(1) an *illustration* in accordance with ■ MCOB 5 (Pre-application disclosure) in place of the information set out in ■ MCOB 7.6.28 R; or

(2) an *ESIS* in accordance with ■ MCOB 5A (MCD Pre-application disclosure),

in place of the information set out in ■ MCOB 7.6.28 R.

7.6.31A R

(1) The *illustration* provided under ■ MCOB 7.6.31R (1) may diverge from the requirements of ■ MCOB 5 (Pre-application disclosure) where it is necessary to do so to reflect the circumstances in which it is being provided.

(2) The *ESIS* provided under ■ MCOB 7.6.31R (2) may diverge from the requirements of ■ MCOB 5A (MCD Pre-application disclosure) where it is necessary to do so to reflect the circumstances in which it is being provided.

7.6.31B G

■ MCOB 7.6.31AR (1) and ■ (2) allow the *firm* to make changes to wording and to add, remove or alter information that would otherwise be misleading to the *customer*.

7.6.32 R

Where ■ MCOB 7.6.28 R 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 7.6.28 R where it is provided as part of:

(1) an *illustration* issued in accordance with ■ MCOB 7.6.18R (1) or ■ MCOB 7.6.22R (1); or

(2) an *ESIS* issued under ■ MCOB 7.6.18R (2) or ■ MCOB 7.6.22R (2).

Simultaneous request for a rate switch and addition or removal of a party to a contract

7.6.33 G

(1) Where a *customer* simultaneously requests a rate switch and the addition or removal of a party to the loan, a *firm* will not be required to provide the *customer* with a separate *illustration* for each in accordance with ■ MCOB 7.6.18R (1) and ■ MCOB 7.6.22R (1). The *firm* may provide the *customer* with a single *illustration* that complies with the requirements of ■ MCOB 5(Pre-application disclosure) for both.

(2) Where a *customer* simultaneously requests a rate switch and the addition or removal of a party to the loan, a *firm* will not be required to provide the *customer* with a separate *ESIS* for each under ■ MCOB 7.6.18R (2) and ■ MCOB 7.6.22R (2). The *firm* may provide the *customer* with a single *ESIS* that complies with the requirements of ■ MCOB 5A (MCD Pre-application disclosure) for both.

European Standardised Information Sheet (ESIS): additional APRC

7.6.34 R

Where a *firm* is required to provide a *customer* with an *ESIS* under ■ MCOB 7.6.18R (2) or ■ MCOB 7.6.22R (2), or a *firm* chooses to provide a *customer* with an *ESIS* under ■ MCOB 7.6.31R (2), the *firm* need not include the additional *APRC* required under ■ MCOB 10A.1.6 R, Section 4 of ■ MCOB 5A Annex 1 and ■ MCOB 5A Annex 2, 6.2R to 6.8R.

7.6.35 R Where a *firm* provides a *customer* with an *ESIS* under ■ MCOB 7.6.18R (2), ■ MCOB 7.6.22R (2) or ■ MCOB 7.6.31R (2), that includes an additional *APRC*, the *firm* must either:

(1) base that additional *APRC* on the *APRC* previously provided to the *customer* under ■ MCOB 5A (MCD Pre-application disclosure); or

(2) calculate that additional *APRC* in accordance with ■ MCOB 10A.1.6 R, Section 4 of ■ MCOB 5A Annex 1 and ■ MCOB 5A Annex 2, 6.2R to 6.12R.

7.6.36 G When considering whether to apply ■ MCOB 7.6.35R (1) or ■ MCOB 7.6.35R (2), a *firm* should consider its obligations under MCOB 3A.2.1R(2) to communicate in a way that is fair, clear and not misleading.