

For first charge mortgage lenders and administrators

New regulation affecting firms lending or administering mortgages

The regulatory framework is changing as we implement the European Mortgage Credit Directive (MCD), which sees new rules apply from 21 March 2016 to firms that deal with mortgages. This factsheet highlights some of the points that first charge mortgage lenders and administrators should consider in getting ready for these changes. Lenders which also arrange or advise on mortgages should refer to the factsheet for first charge intermediaries¹ as well as this one.

What are the main changes?

There are some important changes to the Mortgage and Home Finance: Conduct of Business (MCOB) rules that firms need to be aware of. Firms will also need to factor in the amendments being made to other FCA sourcebooks, e.g. Training and Competence (TC) and the prudential sourcebook for mortgages (MIPRU). To view the rules that will apply from 21 March 2016 you can use the 'time travel' function² on the [FCA Handbook website](#).

Some of the changes for first charge mortgage lenders are:

- the need to provide a binding offer and seven day reflection period
- an adequate explanation of a product's essential features

- new disclosure requirements.

The majority of the changes apply from 21 March 2016, although firms can choose to comply with the new rules (rather than some of the existing ones) from 21 September 2015.

Binding offers and seven day reflection period (MCOB 6A)

The new rules require lenders to make a binding mortgage offer and to give the customer at least seven days to reflect on it. During the reflection period, the offer is binding on the lender but the consumer can accept the offer at any time.

Binding offers can include some conditions, for example to deal with a change in the facts and circumstances on which the lender has based the decision to make the offer (such as the consumer losing their job).³

¹ <https://www.fca.org.uk/firms/firm-types/mortgage-brokers-and-home-finance-lenders/mcd/factsheet-no-039>

² To view a consolidated version of the FCA Handbook as it will be at a particular date in the future, use the 'Show timeline' calendar at the left side of the page and choose the relevant future date.

³ A non-exhaustive list of examples is included in MCOB 6A.3.3G.

Disclosure (MCOB 5A)

The new rules require firms to issue a European Standardised Information Sheet (ESIS), a mandatory product disclosure document that is replacing the Key Facts Illustration (KFI). Firms must comply with the requirement to issue an ESIS by 21 March 2019 at the latest, although they can choose to use the ESIS before then.

From 21 March 2016, firms which issue a KFI rather than an ESIS must provide the following additional information to their customers (MCOB TP 1.1.45 and 46):

- information on the new seven day right of reflection
- where the interest rate is variable, information on the the Annual Percentage Rate of Charge (APRC) and the borrowing rate (including warnings about the variability of these rates)
- where applicable, extra information for foreign currency loans, including an illustration of the impact of a 20% change in the exchange rate.

Adequate explanations (MCOB 4A.2)

Firms will have to provide an adequate explanation of the proposed mortgage contract and any ancillary services, and the explanation must include the pre-contract information, the essential features of the product, and the potential impact on the consumer (including the consequence of default). The manner and extent of the explanation can vary depending on the circumstances of the sale. Firms will need to consider what changes they need to make to their processes for both advised and execution-only sales.

What does this mean for me?

You should now be considering the extent to which your business is affected by the changes.

You will need to review your existing processes and make any necessary changes to ensure they are compliant with the new rules and remain fit for purpose. Some of the things you will want to consider are:

- whether conditions attached to existing offers are appropriate

- the systems changes required to provide an ESIS or the KFI top-up information
- how your existing sales process might need modifying to deliver the adequate explanation.

We encourage you to communicate with all your business partners (e.g. intermediaries and conveyancers) to help them understand what you will expect of them. For example, so that sourcing systems and intermediaries are able to meet your chosen approach to product disclosure and can provide an adequate explanation, and that conveyancers understand how changes in your offer process might impact on the purchasing process (e.g. due to the introduction of a reflection period).

Your existing mortgage permissions will permit you to undertake **second charge mortgage lending**, and the FCA will contact you in the first quarter of 2016 to confirm whether you intend to do so. If you do intend to undertake second charge lending activity you will need to be aware of the new requirements involved as second charge mortgage regulation becomes subject to FCA mortgage rules. More details on the changes to second charge mortgage regulation are set out in a separate factsheet.⁴

How can I manage pipeline applications received before 21 March 2016, when the MCD regulations take effect, but where the agreement comes into existence after this date?

The MCD does not provide transitional arrangements for 'pipeline' applications. The rules implementing the MCD will apply to the granting of credit from 21 March 2016, unless the credit is granted under an agreement existing before that date. This will be the case even if the sales process started before 21 March 2016. You should plan for how you might deal with such cases to ensure that they progress smoothly and to minimise the need for duplicated disclosure. It is up to firms to decide how best to do this, whilst having regard to both the regulatory requirements and the customer experience.

⁴ www.fca.org.uk/firms/firm-types/mortgage-brokers-and-home-finance-lenders/mcd/factsheet-no-040

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To help firms manage their sales pipeline, those with mortgage permissions can choose to apply the new rules up to six months early, from 21 September 2015.⁵ The FCA encourages those planning to adopt early to maintain a dialogue with their business partners (e.g. intermediaries) in the sales process.

What are the key milestones I need to consider ahead of these regulatory changes?

The following are some of the key dates for first charge lenders and administrators.

Milestone	Date
Voluntary early adoption of post-March 2016 rules	From 21 September 2015
Authorised mortgage firms contacted to confirm whether they undertake second charge mortgage lending	1 quarter 2016
MCD implementation - firms are required to meet the new rules for mortgages made from this date	21 March 2016
Disclosure document can be either European Standardised Information Sheet (ESIS) or Key Facts Illustration (KFI) with 'top up' disclosure	21 March 2016 until 20 March 2019
Transitional arrangements for MCD knowledge and competency requirements	Until 21 March 2017
Professional experience of staff can be relied upon to meet MCD knowledge and competency requirements	Until 21 March 2019
Disclosure document must be European Standardised Information Sheet (ESIS)	21 March 2019

Where can I find out more information?

The information provided in this factsheet is not exhaustive. Full details of the changes are set out in the FCA's Policy Statement [PS15/9](#) (and the accompanying Consultation Paper [CP14/20](#)) as well as in the FCA Handbook – all of which are available on the FCA website. To view the rules that will apply from 21 March 2016 you can use the 'time travel' function⁶ on the [FCA Handbook website](#). You will want to familiarise yourself with the detail of all the changes in order to understand the changes you will need to make.

If you cannot find the information you need on the [FCA website](#) and accompanying documents, you can contact us on 0300 500 0597 or mcdqueries@fca.org.uk

⁵ See [MCOB TP 1.1](#).

⁶ To view a consolidated version of the FCA Handbook as it will be at a particular date in the future, use the 'Show timeline' calendar at the left side of the page and choose the relevant future date.