The Mortgage Credit Directive – Bridging loans

With the Mortgage Credit Directive (MCD) introducing new requirements for most types of contracts, there is an exemption for certain bridging loans, which will instead continue to be regulated as they are currently (as captured under MCOB following MMR) or they will be unregulated altogether, depending on their purpose.

The definition of an "MCD exempt bridging loan" is *a regulated mortgage contract or an article 3(1)(b) credit agreement either of no fixed duration or which is due to be repaid within 12 months, used by the consumer as a temporary financing solution while transitioning to another financial arrangement for the immovable property.*

PERG 4.10A.5G confirms that an "MCD exempt bridging loan" is excluded from the MCD rules.

The FCA has provided clarification around what constitutes a "*financial arrangement*" under this definition.

The FCA considers this would include an arrangement to finance the purchase price for a property out of the proceeds of the sale of another property, as well as an arrangement involving a subsequent loan. However, it does not consider that a plan to sell the property purchased with the benefit of the short term loan is a "*financial arrangement*" for this purpose, nor would a lender making repeated or serial short term loans to a borrower which are under 12 months. These loans would therefore be caught under MCD (unless the borrower is acting for business purposes).

As an example, if an individual purchased a run-down property using a bridging loan against it, which was subsequently sold after renovation and the loan paid off, this would fall under the MCD rules if it was determined that the individual was acting for purposes which are outside their trade, business or profession. If it was determined that they were acting for business purposes, then this would be an unregulated bridging loan as it would be now.

Determining whether an individual is acting for personal or business purposes is already a test that advisers and lenders will be making. So the difference from March will be determining whether a bridging loan is unregulated, regulated under MCOB or regulated under MCD. Firms will therefore need to further consider the purpose of the loan. A factor that may affect how a loan is regulated is which property the bridging loan is secured against.

Firms should note of course that they can opt to apply any MCD requirements to non-MCD loans should they wish to do so, as confirmed in MCOB 1.2.16R.