

## MCOB 4 and 4A – an overview of intermediary disclosure

### General principles

- If initial disclosure has been given but any of the information in it subsequently changes, the firm should bring this clearly to the customer's attention [MCOB 4.4A.14G, Principle 7 and MCOB 3A.2.1R].
- Firms are reminded of the general record-keeping requirements in SYSC 9. A firm should keep appropriate records of the disclosures required by MCOB 4.4A.
- If the initial contact is by telephone, then the firm must also, before proceeding further, give the name of the firm and (if the call is initiated by or on behalf of the firm) the commercial purpose of the call [MCOB 4.4A.17R].
- MCD credit intermediation activity is defined as acting as an MCD mortgage adviser (i.e. a mortgage adviser who, by way of business, provides a personal recommendation to a consumer in respect of MCD regulated mortgage contracts) or MCD mortgage arranger (i.e. a mortgage arranger who, by way of business and for remuneration, makes arrangements for another person to enter into or vary an MCD regulated mortgage contract and is not merely introducing that person to an MCD firm).

### MCOB 4.4A requirements – initial disclosure

MCOB reference	How		When		Other relevant factors
	In a durable medium [MCOB 4.4A.9R(1)(b)]	If the initial contact includes spoken interaction, the information must be communicated orally [MCOB 4.4A.9R(2)(a)] If the initial contact does not include spoken interaction, the messages must appear separately from other messages in the communication [MCOB 4.4A.9R(2)(b)]	Must be disclosed in good time before carrying out any MCD credit intermediation activity [MCOB 4.4A.12R(1)]	During the course of initial contact [MCOB 4.4A.12R(2)]	
<p><b>MCOB 4.4A.1R(1)</b> Whether there are any limitations in the range of products that the firm will offer to the customer and, if so, what those are, including:</p> <ul style="list-style-type: none"> <li>• any limitations on the regulated mortgage contracts the firm will consider from within the relevant market [<b>MCOB 4.4A.2R(1) – and see 4.4A.2R(2)</b>]; and</li> <li>• if the firm will not consider direct deals [<b>MCOB 4.4A.2R(3)</b>].</li> </ul> <p>If not offering to the customer products from an unlimited range from across the relevant market, an MCD mortgage credit intermediary must list the names of all the mortgage lenders whose products it is offering [<b>MCOB 4.4A.4R(1)(a)</b>]. Non-MCD credit intermediaries can choose to comply with MCOB 4.4A.4R(1)(b).</p>	<b>Y</b>		<b>Y</b>		<p>A firm that only offers products from one part of a relevant market (for example, just bridging loans) should not disclose its service as unlimited [<b>MCOB 4.4A.3G(1)</b>]. When considering whether there are any limitations in its product range across the relevant market, a firm need not take account of the existence of exclusive deals which a mortgage lender offers to be sold by one or a limited number of mortgage intermediaries only (and not generally by mortgage intermediaries across the relevant market) [<b>MCOB 4.4A.3G(2)</b>].</p> <p>Firm should indicate whether any limitation in its product range is across first charge, second charge or both [<b>MCOB 4.4A.3AG</b>]</p> <p>An MCD mortgage credit intermediary must only disclose that it is independent if its consideration of MCD regulated mortgage contracts across the market is unlimited [<b>MCOB 4.4A.4R(3)</b>]. A firm may be able to describe its product range as unlimited even if it offers its customers only a selection of the regulated mortgage contracts available from the relevant market, or uses 'panels'. The firm would need to ensure that any panel, or selection of products, is sufficiently broad in its composition that it is representative of products from across the market, that it is reviewed regularly, and that its use does not materially disadvantage any customer. In such a case, 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 [<b>MCOB 4.4A.5G</b>]</p> <p>Should be expressed in "simple, clear terms" [<b>MCOB 4.4A.6G</b> – see the examples in that paragraph]</p> <p>A firm that offers a different service for different product types should not disclose that it offers one type of service for its business as a whole. For example, a firm that provides independent advice on retail investment products but only offers a limited range of regulated mortgage contracts should ensure it discloses to the customer that the service is different for the different products [<b>MCOB 4.4A.7G(3)</b>]</p> <p>The information requirements do not apply where: (1) the information has already been provided by the firm and the firm has good reason to believe that it is still accurate and appropriate for the customer; or (2) the information 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 does not expect to alter or replace the product range or basis of remuneration described in that information [<b>MCOB 4.4A.15R</b>]</p> <p>A firm may restrict the home finance transactions it authorises a particular appointed representative to sell. If it does so, the firm must ensure the appointed representative reflects this limited range in any disclosure given to the customer under MCOB 4.4A [<b>MCOB 4.4A.22R</b>]</p> <p>If at the point [this disclosure must be made] a firm is uncertain whether the contract will be a regulated mortgage contract, the firm must: (a) make the initial disclosure; 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. Where (b) applies, the initial disclosure must be made 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 [<b>MCOB 4.4A.21R</b>]</p>

<b>MCOB 4.4A.1R(2)</b> Basis of remuneration, to include all relevant information (including that required by MCOB 4.4A.8R)	<b>Y</b>		<b>Y</b>		The information requirements do not apply where:(1) the information has already been provided by the firm and the firm has good reason to believe that it is still accurate and appropriate for the customer; or (2) the information 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 does not expect to alter or replace the product range or basis of remuneration described in that information [ <b>MCOB 4.4A.15R</b> ]
<b>MCOB 4.4A.8R(1)(a)</b> Any fees which the firm will charge the customer	<b>Y</b>		<b>Y</b>		The details are to be expressed as a specific cash sum, but <b>MCOB 4.4A.8R(2)</b> applies where this is not possible.  The information requirements do not apply where: (1) the information has already been provided by the firm and the firm has good reason to believe that it is still accurate and appropriate for the customer; or (2) the information 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 does not expect to alter or replace the product range or basis of remuneration described in that information [ <b>MCOB 4.4A.15R</b> ]
<b>MCOB 4.4A.8R(1)(b)</b> When any such fees will be payable and, if applicable, reimbursable		<b>Y</b>		<b>Y</b>	
<b>MCOB 4.4A.8R(1)(c)</b> whether the firm will receive commission from the mortgage lender or another third party and, if applicable, whether any commission will be offset against any fees charged and the arrangements for doing so	<b>Y</b>		<b>Y</b>		
<b>MCOB 4.4A.8R(1)(d)</b> for an MCD regulated mortgage contract, the amount of commissions or other inducements, or where the amount is not known at the time of disclosure, notification that the actual amount will be disclosed at a later stage in the ESIS	<b>Y</b>		<b>Y</b>		
<b>MCOB 4.4A.1R(3)</b> <b>MCOB 4.4A.8AR</b> Alternative finance options		<b>Y</b>		<b>Y</b>	
<b>MCOB 4.4A.18R</b> Distance contracts	<p><b>MCOB 1.3.5G</b> and <b>1.3.6G</b> provides guidance on what constitutes a distance contract and, in that context, the definition of a consumer.</p> <p><b>MCOB 4.4A.18R</b> sets out nine items of information that a firm must provide to the consumer <u>in a durable medium and in good time before the distance contract has been agreed.</u></p> <p><b>MCOB 4.5</b> contains further additional disclosure rules and guidance applicable where firms enter into a distance contract in respect of their home finance mediation activities independent of any contractual arrangement with a consumer relating to a particular home finance transaction or transactions.</p> <p>If used in accordance with its notes and provided to the customer at the correct time, using a combined initial disclosure document in a durable medium may satisfy the requirements of MCOB 4.4A.18R, though firms should consider whether it contains all the contractual terms and conditions of the distance contract. [<b>MCOB 4.4A.20G</b>]</p> <p>An MCD credit intermediary may comply with MCOB 4.4A.18R(3), (5) and (9) by providing an ESIS to the customer prior to the conclusion of the MCD regulated mortgage contract [<b>MCOB 4.4A.20AG(1)</b>].</p> <p>Provided that the provisions of MCOB 4.4A on the methods and timing of disclosure are complied with, an MCD credit intermediary may comply with MCOB 4.4A.18R (1), (2) and MCOB 4.4A.18R (4) by providing the necessary information in a separate document, which may be annexed to the ESIS [<b>MCOB 4.4A.20AG(2)</b>]</p>				

**MCOB 4A - Additional disclosure by MCD mortgage credit intermediaries**

MCOB reference	How		When				Other relevant factors
	In a durable medium	Orally	In good time before carrying out any MCD mortgage credit intermediation activity	When contacting or before dealing with a consumer	Before issuing a binding offer	At the customer's request	
<p><b>MCOB 4A.1.1R</b></p> <p>Additional MCD disclosures (briefly: identity and geographical address of firm; Financial Services Register registration number, and how to verify it; whether the firm is a MCD mortgage adviser; information on the procedure for making a complaint to the firm and to the Financial Ombudsman Services)</p>	Y		Y				<p>The information listed in MCOB 4A.1.1R need not all be given at the same time or in the same disclosure [<b>MCOB 4A.1.3G</b>].</p> <p>In general, where other requirements for disclosure in a durable medium also apply, the MCD mortgage arranger may, if it would also satisfy those requirements, combine those other disclosures with the information required by MCOB 4A.1.1R, so long as the combined disclosure is provided to the consumer in good time before the MCD mortgage arranger carries out any MCD mortgage credit intermediation activity [<b>MCOB 4A.1.4G</b>].</p>
<p><b>MCOB 4A.1.5R</b></p> <p>Variation in levels of commission (for non-tied MCD mortgage credit intermediaries)</p>	Either					Y	The customer must be informed of their right to request this information.
<p><b>MCOB 4A.1.7R</b></p> <p>MCD mortgage credit intermediary must require their appointed representatives to disclose the capacity in which the appointed representative acting</p>	Either			Y			
<p><b>MCOB 4A.2.1R</b></p> <p>Adequate explanation</p>	Either				Y		<p><b>MCOB 4A.2.2R</b> states that the firm may adapt the manner and extent of giving the explanations, as well as the person giving them, according to:</p> <p>(1) the circumstances of the situation in which the MCD regulated mortgage contract is offered;</p> <p>(2) the consumer to whom it is offered; and</p> <p>(3) the nature of the MCD regulated mortgage contract offered.</p> <p>The [adequate explanations] do not amount to advice to that consumer. Firms may wish to refer to PERG (particularly PERG 4.6) for guidance on the regulatory perimeter in relation to advising on a home finance transaction [<b>MCOB 4A.2.3G</b>].</p>