



CP16/2: Mortgage Credit Directive: Minor changes to our rules and guidance

In this paper we set out a number of proposed changes to our Handbook, in particular to the Perimeter Guidance manual (PERG) and Glossary of terms. We are also proposing changes to rules and guidance in the Mortgage and Home Finance: Conduct of Business sourcebook (MCOB).

Why are we issuing this consultation paper?

The majority of the proposed changes to our rules and guidance are being made as a result of the legislation that will be laid shortly by HM Treasury, to ensure that mortgage contracts entered into by housing associations on or after 21 March 2016 will be outside the scope of our mortgages regime, where such lending is outside the scope of the MCD, is a bridging loan, or involves a restricted public loan.

Housing association loans which were entered into before 1 April 2014 and which currently are regulated under the Consumer Credit Act 1974 ("CCA") will remain so under these proposals. Regulated credit agreements entered into by Welsh and Northern Irish housing associations on or after 1 April 2014 will become exempt agreements for the purposes of both FSMA and the CCA where the agreement is secured by a legal or equitable mortgage on land used or intended for residential purposes. This will mean that they will be treated the same as equivalent agreements in England or Scotland going forward.

If you are a housing association with a 'back book' of second charge loans which were entered into before 1 April 2014 and you have an interim permission, you will need to ensure you make an application for the appropriate consumer credit permissions before 21 March 2016 or, if earlier, the application deadline we have sent you. Information on how to make an application can be found [on our website](#) [3].

If you are a housing association with a 'back book' of second charge loans which were entered into before 1 April 2014 and you do not have an interim permission you should contact us as soon as possible to discuss your authorisation requirements.

If you are a housing association with a 'back book' of second charge loans which were entered into before 1 April 2014 and you have already applied for consumer credit authorisation but think you may not have applied for the correct permissions you may need to vary your permission. Information on how to do this can be found [on our website](#) [4] or by contacting us.

[Consultation paper 16/2](#) [5] [PDF]

Who is this consultation aimed at?

This consultation will particularly affect housing associations and consumers that have taken out second charge mortgages with housing associations. It will also affect firms and consumers with credit agreements or consumer hire agreements which were entered into before 1 April 2014 and regulated under the CCA but which would not be regulated if a similar agreement were entered into now because of the introduction of an exemption, e.g. a buy-to-let mortgage contract entered into before 31 May 2008.

The changes relating to initial disclosure requirements will particularly affect mortgage lenders and their customers. The changes to the MCOB transitional provisions will affect those firms who intend to issue 'topped up' KFIs.

This consultation will be of interest to consumers who are borrowers or hirers under relevant agreements, particularly those who have taken out a loan from a housing association secured by a second charge mortgage.

The initial disclosure requirement proposals will also be of interest to consumers.

Next steps

The consultation closed one month after the publication of the paper because of the need to ensure our Handbook is aligned with the legislative framework as of 21 March 2016. The consultation period for this paper ended on **15 February 2016**.

Firms should also consider how the proposed legislation will apply to their business including with regard to authorisation. Housing associations in particular will need to assess whether they hold, or should hold, permission for the regulated activity of exercising or having the right to exercise the lender's rights and duties under a regulated credit agreement for in relation to their back book of second charge mortgage loans entered into before 1 April 2014.

We will consider your feedback and aim to make our rules before 21 March 2016. We will publish a summary of the consultation feedback we receive together with our response in the March Handbook Notice.

Further information

[Information on consumer credit authorisations](#) [3].

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- [1] <https://www.fca.org.uk/print/publications/consultation-papers/cp16-2-mortgage-credit-directive-minor-changes-our-rules-and>
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