Equity Release

Quick reference Guide Chapter 3

By the end of this guide you will understand the regulation of home reversion plans including the main sources of reference

Regulation of Home Reversion Plans

Definitions

Here are some terms that you need to be familiar with in relation to this chapter:

Term	Definition
Reversion provider	• Company providing the finance under a home reversion plan.
Reversion occupier	• Person who will occupy the property used to finance the reversion plan.
Related person	• Spouse, civil partner, person whose relationship with the reversion occupier resembles that of a husband or wife (regardless of gender), child, parent, brother, sister, grandparent or grandchild
Qualifying interest in land	• Essentially it refers to freehold, leasehold, or commonhold property in all of the UK except Scotland and to an interest of the owner in land in Scotland but excludes timeshare property.
MCOB rules	• Mortgages and Home Finance: Conduct of Business rules. Relevant to providers of regulated mortgage contracts, lifetime mortgages and home reversion plans.
Firms	• Organisations that are the subject of regulation, eliminating the need to refer to different types of business such as partnerships, companies etc.

Real-time promotions	• Those in which the company interacts with the potential customer instantly, such as through a telephone conversation.
Non-real time promotions	• These include advertisements or fliers.
Advised sale	• Where a recommendation is given.
Non advised sale	• The provider is permitted to ask scripted questions prepared by a competent person but no recommendation is given and the customer chooses the product themselves.
Competent valuer	• A suitably qualified member of a professional body.
Independent (valuer) of the adviser	• The customer can choose the valuer but the firm has the right to reject the customer's choice based on competence to value.
Partial home reversion plan	• Where the customer sells just a proportion of the property rather than all of it.

There are also a number of abbreviations used as follows:

TCF	• Treating Customers Fairly
FSCS	• Financial Services Compensation Scheme
FOS	• Financial Ombudsman Service
SCDD	• Services and Charges Disclosure Document
ERC	• Equity Release Council
KFI	• Key Facts Illustration

Home reversion plans - definition

The **FCA definition** of a home reversion plan is provided in MCOB.

3.A.1 Home reversion plans

It is an arrangement that includes the following characteristics:

- **Reversion provider** buys all or part of a **qualifying interest** in land.
- **Reversion occupier** or **related person** entitled to occupy at least 40% of land in question.
- Arrangement specifies that entitlement to occupy will end on the occurrence of one or more of the following:
  - reversion occupier becomes permanent resident of a care home
  - reversion occupier dies
  - end of specified period of at least 20 years from date of arrangement.

Unlike the definition of regulated lifetime mortgage contract, the home reversion plan definition makes no reference to the fact that customer is likely to be elderly.

Certain arrangements fall outside the FCA criteria such as:

- Land and dwellings that do not meet the 40% residential criterion.
- Plans relating to timeshare property.
- Plans for relatives more distant than those in the FCA definition.
- Commercial arrangements.
- Property outside UK.

3.A.2 Providers

The Four types of firm subject to MCOB regulations are **lenders, advisers, arrangers and administrators.** As home reversions are not mortgages, the first category refers to **lenders and providers**.

3.B MCOB and home reversion plans

The basic underlying principles of MCOB rules, under powers vested in the FCA by **Financial Services and Markets Act 2000 (FSMA)** have now been extended to home reversion providers.

3.B.1 Scope of the rules

Rules identify **one single market** with **two distinct sectors**:

- Market for lifetime mortgages.
- Market for home reversion plans.

3.B.2 Communications with customers

Providers **must only** refer to home reversion products as **home reversion plans**. (They were previously referred to as home reversion schemes.)

Communications must not only meet overarching requirement of being **clear, fair and not misleading** but should also use **plain, intelligible language** and information must be provided in a **durable medium.**

3.B.2.A Financial Promotions

Rules distinguish between **real time** and **non-real time promotions**. No unsolicited real time promotion of home reversion plans is permitted, unless the customer consents to it.

Non-real time promotions can only use the term ‘home reversion plan’ to describe this type of product, which must state this prominently and that the customer should ask for personalised illustration.

No less prominence should be given to disadvantages than to benefits of any product feature described.

3.B.2.B Inducements

Where products are offered on a direct basis, it is **forbidden** to offer inducements to purchase where inducements will give rise to a conflict with a firm’s duties to the customer.

3.B.2.C Sales

Under the Mortgages and Home Finance Conduct of Business sourcebook (MCOB) rules, which came into force on 26 April 2014, non-advised sales are not longer permitted. Thus, the FCA regards sales of home reversion plans as **advised**.

3.B.2.D Advice

Customer must be informed of the service to be provided which may be:

- Advice across whole market.
- Advice on products from limited range of providers.
- Advice on single product.

3.B.2.E Independent advice

Customer must be advised if the firm offers products from equity release market in general (lifetime mortgages **and** home reversion plans) as independence relates to giving advice on all products across this market place.

If only home reversion plans and not other types of equity release are offered, a firm can still claim to be independent provided it informs customer that it **only** operates in that market.

3.B.3 Suitability

Suitability means any product offered must:

- fit the customer's needs, objectives, circumstances and preferences
- have benefits that outweigh drawbacks
- ensure other methods of raising funds and other products designed for this purpose are less suitable

Although they should be discussed, an Adviser is **not** obliged to advise on any implications of:

- trading down
- renting
- delaying a decision due to changes in prices or interest rates

Specific features must be considered such as:

- duration of the right to occupy the property
- protections applicable if dealing with an unauthorised provider.

3.B.3.A Treating Customers Fairly

It is a requirement for all regulated firms that **all customers are treated fairly**.

Firms are forbidden to apply high pressure sales techniques and methods, and customers may not be committed to the product before being given the opportunity to consider the illustration and offer.

The FCA Rules remind providers of their obligations under the **Unfair Contract Terms regulations**, which give a court the right to set aside any term in a contract that it regards as unreasonable, where the consumer is a private individual and the provider is a business.

This section is most important and it is strongly recommended that the study text is carefully reviewed in full. (ER1, Chapter 3, Section B3B.)

3.B.4 The sales cycle

3.B.4.A Disclosure rules

The **disclosure requirements** are the same as for regulated mortgage and lifetime mortgage contracts. Broadly, an SCDD must be issued to the customer when it is clear that there is a possibility that business might be entered into and a KFI must be given before completion of a contract.

3.B.4.B Key Facts Illustration (KFI)

The FCA Rules and format of a home reversion plan **KFI** are similar to those applicable to lifetime mortgages and again, must be **personalised** to the customer.

Content of the KFI:

1. About this information
2. What service are we providing you with?
3. What is a home reversion plan?
4. What you have told us
5. Description of this home reversion plan
6. Benefits
7. Risks – important things that you must consider
8. What you will have to pay and when
9. What fees you must pay
10. Insurance
11. What happens if you do not want this home reversion plan any more?
12. Using a home reversion plan intermediary

Firm must provide **contact details** of how it may be contacted by customer.

3.B.4.C Charges

The FCA Rules require firms to be transparent in their approach to **charges** and oblige providers not to make excessive charges; excessive is not actually defined.

3.B.5 Valuing and selling the property

A **Competent valuer,** who is **independent of the provider**, must undertake any valuation of property.

3.B.6 Partial home reversion plan

Where customer retains a stake in the property, the provider must:

- take steps to sell property within reasonable period of time after termination of the contract
- achieve the best price reasonably obtainable

3.C Why regulate home reversion?

To provide protection for customers raising finance from their home in a similar way to savers and investors.

3.C.1 More complicated products and services

There's a huge choice of products and options but these are often more complex. Customers admit that they do not always understand how they work. These are long-term arrangements with major financial implications. Regulation also makes it easier to compare products.

3.C.1.A Prevent miss-selling

Whilst the majority of advisers and providers act with integrity, significant sums of money are transacted with these products and regulation is designed to make it more difficult to operate outside the rules.

3.C.2 Protect vulnerable customers

These products are aimed at older customers who perhaps do not have the ability to understand the products and may be susceptible to being led into unsuitable contracts.

3.C.3 Valuations

Customers have a degree of protection against the effect of serious under-valuations of their property when selling either part or all of its value.

3.C.4 Tenancy Agreements

Having sold part or all of the value of their property, the customer has the right to continue to live in it by way of a lease. Statutory protection exists via:

- ***Unfair Contract Terms Act 1977***
- ***Unfair Terms in Consumer Contract Regulations 1999***

3.C.5 Complaints and compensation

Firms must be members of FOS and FSCS

3.C.6 Self-regulation

Firms are expected to be members of the Equity Release Council (ERC). Note that the no-negative equity guarantee requirement which applies to lifetime mortgages is not applicable to home reversions plans.

Multiple Choice Questions

Question	Answer	
1 - It is usual for the FCA to refer to organisations that are the subject of regulation as:	A.	firms
	B.	partnerships
	C.	companies
	D.	businesses

2 - Which of the following would not satisfy the definition of being a 'qualifying interest in land'?	A.	Freehold property
	B.	Leasehold property
	C.	Commonhold property
	D.	Timeshare property

3 - Which of the following is not a type of firm that has to adhere to regulatory conduct of business requirements?	A.	Lenders and providers
	B.	Advisers
	C.	Reversion occupiers
	D.	Arrangers

4 - When referring to home reversion products, providers must refer to them only as:	A.	home reversion arrangements
	B.	home reversion contracts
	C.	home reversion plans
	D.	home reversion policies

5 - The adviser acts as an agent for the customer when the service provided by the adviser is:	A.	advice on products from a limited range of providers
	B.	advice across the whole market
	C.	advice on a single product
	D.	advice on a single product of each type

6 - Which of the following products is NOT suitable? The one that:	A.	fits the customer's needs, objectives, circumstances and preferences
	B.	has benefits that outweigh the drawbacks
	C.	is more suitable than other products designed for this purpose
	D.	is the 'least worst' option

7 - For non-advised sales, the firm may not use scripted questions that relate to:	A.	state benefits
	B.	eligibility criteria
	C.	health and life expectancy
	D.	future plans and needs

8 - Which of the following is not covered in any of the eight sections of an IDD?	A.	The Financial Conduct Authority
	B.	The Financial Services and Markets Act 2000
	C.	The Financial Services Compensation Scheme
	D.	The Financial Ombudsman Service

9 - Where there are joint applicants, the illustration must be based on the:	A.	longest life expectancy of the joint applicants
	B.	shortest life expectancy of the joint applicants
	C.	average life expectancy of the joint applicants
	D.	average of the GAD morbidity tables for the joint applicants

10 - Fred and Ethel were required to sign a rental contract under their equity release arrangement. Who was the other party to the contract?	A.	Their main beneficiary
	B.	Their leaseholder
	C.	The annuity provider
	D.	The reversion provider

- **End of Questions** -

Answers

Question	**Answer**	
1 - It is usual for the FCA to refer to organisations that are the subject of regulation as:	A	firms
2 - Which of the following would not satisfy the definition of being a 'qualifying interest in land'?	D	Timeshare property
3 - Which of the following is not a type of firm that has to adhere to regulatory conduct of business requirements?	C	Reversion occupiers
4 - When referring to home reversion products, providers must refer to them only as:	C	home reversion plans
5 - The adviser acts as an agent for the customer when the service provided by the adviser is:	B	advice across the whole market
6 - Which of the following products is NOT suitable? The one that:	D	is the 'least worst' option
7 - For non-advised sales, the firm may not use scripted questions that relate to:	A	state benefits
8 - Which of the following is not covered in any of the eight sections of an IDD?	B	The Financial Services and Markets Act 2000
9 - Where there are joint applicants, the illustration must be based on the:	A	longest life expectancy of the joint applicants
10 - Fred and Ethel were required to sign a rental contract under their equity release arrangement. Who was the other party to the contract?	D	The reversion provider