

Chapter 2

Communications and financial promotions

2.1 Purpose and Application: Who and what?

2.1.1 **G** *Principle 6* requires a *firm* to pay due regard to the interests of its *customers* and treat them fairly. *Principle 7* requires a *firm* to pay due regard to the information needs of its *clients* and communicate information to them in a way which is clear, fair and not misleading. *Principles 6* and *7* also apply to an *electronic money institution*, a *payment institution* and a *registered account information service provider* with respect to provision of *payment services* and the issuance of *electronic money*. This chapter reinforces these requirements by requiring a *firm* and these other providers to pay regard to the information needs of *banking customers*, *payment service customers* and *electronic money customers* when communicating with, or making a *financial promotion* or a *payment service* or *electronic money promotion* to, them and to communicate information in a way that is clear, fair and not misleading.

2.1.2 **R** In addition to the general application rule (■ BCOBS 1.1.1 R), this chapter applies to the *communication*, or *approval for communication*, to a *person* in the *United Kingdom* of a *financial promotion* of a *retail banking service* unless it can lawfully be *communicated* by an *unauthorised person* without *approval*.

2.1.3 **R** This chapter applies to a *firm*:

- (1) communicating with a *banking customer* in relation to *accepting deposits*;
- (2) *communicating a financial promotion* that is not an *excluded communication*; or
- (3) *approving a financial promotion*.

2.1.3A **G** This chapter applies to a *provider*:

- (1) communicating with a *payment service customer* or an *electronic money customer* in relation to the provision of a *payment service* or the issuing of *electronic money* and activities connected with those activities; or
- (2) *communicating a payment service* or *electronic money promotion*.

2.1.4 **G** In accordance with ■ BCOBS 1 Annex 1 paragraph 1.1R, ■ BCOBS 2 does not apply to a *MiFID investment firm*, a *third country investment firm* or a *MiFID optional exemption firm* in relation to the sale of *structured deposits*. A *MiFID investment firm*, a *third country investment firm* or a *MiFID optional exemption firm* is subject to the rules specified in ■ COBS 1.1.1AR(2) in relation to the sale of *structured deposits*.

Approving financial promotions: permission.....

2.1.5 **G** (1) The effect of section 55NA of the Act is that a *firm* is unable to approve a *financial promotion* unless:

- (a) the *firm* is a *permitted approver* in relation to the *financial promotion*; or
- (b) an *approver permission exemption* applies.

(2) ■ SUP 6A contains *guidance* on applying for *approver permission*.

2.2 The fair, clear and not misleading rule

- 2.2.1 **R** A *firm* or other provider must take reasonable steps to ensure that a communication, *financial promotion* or *payment service* or *electronic money promotion* is fair, clear and not misleading.

- 2.2.2 **G** The fair, clear and not misleading *rule* applies in a way that is appropriate and proportionate taking into account the means of communication and the information that it is intended to convey. So a communication addressed to a *banking customer*, a *payment service customer* or an *electronic money customer* who is not a *consumer* may not need to include the same information, or be presented in the same way, as a communication addressed to a *consumer*.

- 2.2.3 **G** The *rules* in ■ SYSC 3 (Systems and Controls) and ■ SYSC 4 (General organisational requirements) require a *firm* to put in place systems and controls or policies and procedures in order to comply with the *rules* in ■ COBS 4.6 (Past, simulated past and future performance), ■ COBS 4.7.1 R (Direct offer financial promotions), ■ COBS 4.10 (Approving and confirming compliance of financial promotions) and this chapter of *BCOBS*.

- 2.2.4 **G** Part 7 (Offences relating to Financial Services) of the Financial Services Act 2012 create criminal offences relating to certain misleading statements and practices.

- 2.2.5 **G** A communication, *financial promotion* or *payment service* or *electronic money promotion* should not describe a feature of a product or service as "guaranteed", "protected" or "secure", or use a similar term unless:
 - (1) that term is capable of being a fair, clear and not misleading description of it; and
 - (2) the *firm* or other provider communicates all of the information necessary, and presents that information with sufficient clarity and prominence, to make the use of that term fair, clear and not misleading.

- 2.2.5A **G** A communication, or *payment service* or *electronic money promotion* relating to a *currency transfer service* is likely to be misleading if it presents an exchange rate in a way that is likely to give the impression that the rate

is available to a *person* or a class of *persons* if that rate is unlikely to be obtained by that *person* or class of *persons* with respect to a typical transaction.

2.2.5B **G** The inclusion of wording in a communication or *payment service or electronic money promotion* to the effect that an exchange rate shown is not available to particular *customers* will not necessarily prevent the presentation of the exchange rate being misleading.

2.2.6 **G** A communication or a *financial promotion* that refers to sums available by way of an *authorised non-business overdraft agreement* should make clear that such sums constitute borrowing or credit.

2.2.7 **G** A *firm* is reminded of its obligations under **■ ESG 4.3.1R** when it *communicates or approves a financial promotion* that references the *sustainability characteristics* of a product or service.

2.2A Summary box for savings accounts

2.2A.1

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- (1) A *firm* must ensure that a *direct offer financial promotion* in relation to a *savings account* includes a summary box in the form set out in ■ BCOBS 2 Annex 1R.
- (2) In the case only of a *direct offer financial promotion* on paper, it is sufficient for the purposes of (1) if the *direct offer financial promotion* is accompanied by a summary box on a separate sheet.
- (3) The summary box must contain, in the sequence of rows set out in the table in ■ BCOBS 2 Annex 1R:
 - (a) the headings prescribed in the first column in the table in ■ BCOBS 2 Annex 1R; and
 - (b) the corresponding information described in the second column in the table in ■ BCOBS 2 Annex 1R.
- (4) In the case of a *direct offer financial promotion* communicated by voice telephony:
 - (a) this *rule* (except for this paragraph) does not apply; and
 - (b) the *firm* must provide each of the items of information described in the second column in the table in ■ BCOBS 2 Annex 1R (except for the information in the row that includes the heading “What would the estimated balance be after [x] months based on a £[x] deposit?”) orally in clear, easily understandable language during the telephone communication.
- (5) The *firm* must present the summary box in clear, easily understandable language and in a prominent way.
- (6) In the case of a *direct offer financial promotion* communicated in an electronic medium which is constrained by space, a *firm* may amend the form of the summary box where to do so would make the presentation of the information clearer in that particular electronic medium.
- (7) Where more than one rate of interest may apply to a *savings account*, the summary box must show each rate of interest with equal prominence. In particular, the lowest rate of interest that may apply to the *savings account* must not be given any less prominence in the summary box than the other rate or rates of interest shown in the summary box.
- (8) The summary box must not include any information other than the information described in the table in ■ BCOBS 2 Annex 1R.

2.2A.2**G**

- (9) The summary box may relate to more than one *savings account* provided that the information in relation to each respective account is presented in a separate column in the summary box and is clearly distinguishable from information in relation to other accounts.
- (1) The summary box should be completed in accordance with the *guidance* set out in the notes to the summary box in ■ BCOBS 2 Annex 1R.
- (2) The requirement under ■ BCOBS 2.2A.1R is to include the rate or rates of interest that apply to the *savings account* in the summary box itself. It is not, therefore, permissible to simply refer in the summary box to a separate webpage or document where the rate or rates of interest can be found.
- (3) Where the rate of interest that applies to a *savings account* may change depending on the period that has elapsed since it was opened or on whether certain conditions are met, a *firm* should incorporate the table set out in ■ BCOBS 2 Annex 2G in the row of the summary box that includes the heading "What is the interest rate?" unless it would be misleading to do so.
- (4) The effect of ■ BCOBS 2.2A.1R(1) is that the summary box must be incorporated in the *direct offer financial promotion* itself. It is not sufficient, for example, to include in a *direct offer financial promotion* that appears on a website a link to a separate page containing the summary box. ■ BCOBS 2.2A.1R(2) provides a limited exception to this where a *direct offer financial promotion* is on paper, in which case the summary box may accompany the *direct offer financial promotion* as a separate document.
- (5) The effect of ■ BCOBS 2.2A.1R(8) is that any additional information in relation to a *savings account* that a *firm* chooses to provide must appear outside the summary box.
- (6) A *firm* may wish to include a statement in close proximity to the summary box that the information provided in it is a summary of the key features of the *savings account* and is not intended to be a substitute for reading the terms and conditions that apply to the account.

2.2B General information about overdrafts for personal current accounts

2.2B.1

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- (1) A *firm* must ensure that a *direct offer financial promotion* includes the information set out in ■ BCOBS 2.2B.2R if:
 - (a) it relates to an account, other than a current account mortgage which:
 - (i) is a payment account within the meaning of the *Payment Accounts Regulations*; and
 - (ii) does not fall within paragraph (2); and
 - (b) it is made in writing.
- (2) An account falls within this paragraph if it is offered on terms that:
 - (a) an agreement which provides authorisation in advance for the *banking customer* to overdraw on the account cannot arise; and
 - (b) either:
 - (i) the account cannot become overdrawn without prior arrangement; or
 - (ii) no charge is payable (by way of interest or otherwise) if the account becomes overdrawn without prior arrangement; and
 - (c) no charge is payable where the *firm* refuses a payment due to lack of funds.
- (3) In the case only of a *direct offer financial promotion* on paper, it is sufficient for the purposes of (1) if the *direct offer financial promotion* is accompanied by the required information on a separate sheet.

2.2B.2

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The information required by this *rule* is:

- (1) general information about overdrafts consisting of, so far as is relevant to the account or accounts that are the subject of the *direct offer financial promotion*:
 - (a) an explanation that an overdraft is a borrowing or credit facility;
 - (b) a general description of the nature and principal features of arranged and unarranged overdrafts associated with the personal current accounts offered by the *firm*;
 - (c) a general explanation of the principal risks associated with:

2.2B.3

R

- (i) overdrawing without prior arrangement; and
- (ii) opting out of an unarranged overdraft facility (if the *firm's* terms and conditions permit this).
- (d) a general explanation of what may happen when a customer attempts to exceed an arranged overdraft limit or to overdraw in the absence of an arranged overdraft;
- (e) a general explanation of how the use of an arranged or unarranged overdraft might impact a *banking customer's* credit file;
- (2) information about the availability of the following tools and how a *banking customer* can access them:
 - (a) the overdraft cost calculator required by ■ BCOBS 8.2; and
 - (b) (if ■ BCOBS 8.3 applies to the *firm* in relation to the personal current account) the overdraft eligibility tool required by ■ BCOBS 8.3.

2.2B.4

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- (1) The information required to be included under ■ BCOBS 2.2B.2R must be:
 - (a) concise;
 - (b) in clear, simple language; and
 - (c) presented prominently.
- (2) The information required to be included under ■ BCOBS 2.2B.2R must be presented together.
- (1) A *firm* may consider including the following in the information included to comply with ■ BCOBS 2.2B.2R(1):
 - (a) that overdrafts are primarily intended for short-term borrowing and are not generally suitable for longer-term borrowing;
 - (b) an explanation of what an arranged overdraft is and how to request one;
 - (c) an explanation of what an unarranged overdraft is and how it might arise;
 - (d) that use of an overdraft will or may give rise to interest or other charges (as applicable) and how a *banking customer* can find out more; and
 - (e) that attempting to exceed a credit limit or become overdrawn without a pre-arranged overdraft may result in items not being paid and that this will or may incur charges.
- (2) Where the nature and features of arranged and unarranged overdraft facilities associated with the accounts that are the subject of the *direct offer financial promotion* differ significantly between accounts, the *firm* should set out the ways in which they differ.
- (3) The information provided under this chapter should be general in nature, but a *firm* may indicate where additional or more detailed information can be found.

- (4) Information will not be treated as included prominently unless it is presented, having regard to other content it is presented alongside, in such a way that it is likely that the attention of the average *banking customer* would be drawn to it.
- (5) The effect of ■ BCOBS 2.2B.1R(1) is that the information must be incorporated in the *direct offer financial promotion* itself. It is not sufficient, for example, to include in a *direct offer financial promotion* that appears on a website a link to a separate page containing the information. ■ BCOBS 2.2B.1R(3) provides a limited exception to this where a *direct offer financial promotion* is on paper, in which case the information may accompany the *direct offer financial promotion* as a separate document.

2.2B.5

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Firms are reminded that they will also need to comply with the *rules* in ■ CONC 3 (Financial promotions and communications with customers) where those *rules* apply.

2.3 Other general requirements for communications and financial promotions

2.3.1 **R** A *firm* must ensure that each communication made to a *banking customer* and each *financial promotion communicated or approved by the firm*:

- (1) includes the name of the *firm*;
- (2) is accurate and, in particular, does not emphasise any potential benefits of a *retail banking service* without also giving a fair and prominent indication of any relevant risks;
- (3) is sufficient for, and presented in a way that is likely to be understood by, the average member of the group to whom it is directed, or by whom it is likely to be received; and
- (4) does not disguise, diminish or obscure important information, statements or warnings.

2.3.1A **R** A provider must ensure that each communication made to a *payment service customer* or an *electronic money customer* and each *payment service or electronic money promotion communicated by it*:

- (1) includes the name of the provider;
- (2) is accurate and, in particular, does not emphasise any potential benefits of a *payment service or electronic money product* without also giving a fair and prominent indication of any relevant risks;
- (3) is sufficient for, and presented in a way that is likely to be understood by, the average member of the group to whom it is directed, or by whom it is likely to be received; and
- (4) does not disguise, diminish or obscure important information, statements or warnings.

2.3.2 **G** The name of the *firm* or other provider may be a trading name or shortened version of the legal name of the *firm*, provided the *banking customer, payment service customer or electronic money customer* can identify the *firm* or provider communicating the information.

- 2.3.3** **G** In deciding whether, and how, to *communicate* information to a particular target audience, a *firm* or other provider should take into account the nature of the *retail banking service*, the *payment service* or *electronic money product*, the *banking customer's*, *payment service customer's* or *electronic money customer's* likely or actual commitment, the likely information needs of a reasonable recipient, and the role of the communication, *financial promotion* or *payment service* or *electronic money promotion* in the sales process.
- 2.3.4** **G** If a communication or a *financial promotion* or *payment service* or *electronic money promotion* names the *FCA*, *PRA* or both as the regulator of a *firm* or other provider, and refers to matters not regulated by the *FCA*, *PRA* or both, the *firm* or other provider should ensure that the communication, *financial promotion* or *payment service* or *electronic money promotion* makes clear that those matters are not regulated by the *FCA*, *PRA* or both.
- 2.3.5** **G** When *communicating* information, a *firm* or other provider should consider whether omission of any relevant fact will result in information given to the *banking customer*, *payment service customer* or *electronic money customer* being insufficient, unclear, unfair or misleading.
- 2.3.6** **G** The Depositor Protection Part of the *PRA Rulebook* may apply in relation to communications with a *banking customer*.
- 2.3.7** **R** If a communication or a *financial promotion* compares a *retail banking service* with one or more other *retail banking service* (whether or not provided by the *firm*), the *firm* must ensure that the comparison is meaningful and presented in a fair and balanced way.
- 2.3.7A** **G** If a communication or a *payment service* or *electronic money promotion* compares a *payment service* or service in relation to *electronic money* with one or more other *retail banking service*, *payment service* or service in relation to *electronic money* (whether or not provided by the provider), the provider must ensure that the comparison is meaningful and presented in a fair and balanced way.
- 2.3.7B** **R** If a communication or *payment service* or *electronic money promotion* compares the cost of a *currency transfer service* with the cost of a service provided by any other provider or providers (whether identified or not):
- (1) the comparison must be meaningful and presented in a fair and balanced way; and
 - (2) the *firm* or other provider must be able to substantiate the claims made.
- 2.3.7C** **G** For the purpose of **BCOBS 2.3.7BR** the cost of a *currency transfer service* includes:
- (1) any charges payable in relation to the currency conversion;

- (2) any charges payable in relation to a connected *payment service* or *electronic money* issuance; and
- (3) the margin between the exchange rate that would be offered to a majority of *persons* of the class at whom the promotion is directed and a currently applicable interbank exchange rate, calculated using an independently published interbank spot rate.

2.3.8

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If a communication or a *financial promotion* in relation to a *retail banking service* refers to a particular tax treatment or rate of interest payable, a *firm* must ensure that a prominent statement that the tax treatment or the rate of interest payable:

- (1) depends on the individual circumstances of each *banking customer*; and
- (2) may be subject to change in the future;

is either included in that communication or *financial promotion*, or provided to the *banking customer* on paper or in another *durable medium* in good time before the *banking customer* is bound by the contract for that *retail banking service*.

2.3.9

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When designing a *financial promotion*, a *firm* may find it helpful to take account of the British Bankers' Association/Building Societies Association Code of Conduct for the Advertising of Interest Bearing Accounts.

2.3.10

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(1) This *rule* applies to the communication of the balance of a payment account within the meaning of the *Payment Accounts Regulations*, other than a current account mortgage.

(2) The communication must not include a figure described as "available funds", "balance", "available balance" or any similar expression that includes both sums standing to the credit of the account and sums available under an *authorised non-business overdraft agreement* associated with the account.

2.3.11

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(1) ■ BCOBS 2.3.10R does not prohibit a *firm* from disclosing sums available for drawdown under an *authorised non-business overdraft agreement* alongside a "balance", "available funds" or "available balance" figure.

(2) Where an account is overdrawn, ■ BCOBS 2.3.10R does not prohibit a *firm* from describing as a "balance" a negative figure that represents the amount by which the account is overdrawn.



2.4 Cash deposit ISAs and cash deposit CTFs

2.4.1 **G** [deleted]

2.4.2 **G** If a *financial promotion* relates to a *cash deposit ISA*, *cash-only lifetime ISA* or *cash deposit CTF*, **■** COBS 4.7.1 R (Direct offer financial promotions) also applies.

Form of Summary Box for Savings Accounts

This annex is referred to in ■ BCOBS 2.2A.1R

| Summary Box | |
|--|---|
| Account name | Name of <i>savings account</i> |
| What is the interest rate? | <p>The rate or rates of interest that apply to the <i>savings account</i> (see note 1).</p> <p>Where different rates of interest apply to the <i>savings account</i> in different circumstances, an explanation of the circumstances in which each of the different rates applies (see note 2).</p> <p>Where an interest rate automatically tracks a reference interest rate (see note 3):</p> <ul style="list-style-type: none"> -a statement that this is the case, identifying the reference interest rate; -an explanation of how the applicable interest rate is calculated on the basis of the reference interest rate; -an explanation of how the customer can access and monitor the level of the reference interest rate from time to time, including a website link to where the latest level of the reference interest rate can be found, where practicable. <p>The times at which interest payments are calculated and credited to the <i>savings account</i>.</p> |
| Can [name of <i>firm</i>] change the interest rate? | <p>Whether or not the <i>firm</i> has the right to change the rate or rates of interest.</p> <p>Where the <i>firm</i> has the right to change the rate of interest, brief details of the circumstances in which that right may be exercised and how and when notice of the change will be given (see note 4).</p> |
| What would the estimated balance be after [x] months based on a £[x] deposit? | <p>One or more projections of the future balance of the <i>savings account</i>, which provide a representative illustration of the cash returns that the account will generate (see notes 5 to 9).</p> <p>A statement of the assumptions on which the projection is based.</p> |
| How do I open and manage my account? | <p>Details of any eligibility criteria that apply to the <i>savings account</i> (see note 10).</p> <p>A brief description of how to open the <i>savings account</i>, including a reference to any service available that enables a <i>banking customer</i> to switch to the <i>savings account</i>.</p> <p>Whether a minimum amount must be deposited to open the <i>savings account</i> and, if so, that amount.</p> <p>Whether a minimum amount must be deposited in the <i>savings account</i> on a regular basis and, if so, that amount, the frequency with which it must be paid, and any consequences of not doing so.</p> |

Summary Box

Whether a maximum amount may be deposited in the *savings account* in any specified period of time and, if so, the amount and the period.

Whether there is a maximum amount that may be held in the *savings account* and, if so, that amount (see note 11).

A reference to the channels through which the *banking customer* can communicate with the *firm* and give instructions in relation to the *savings account* (see note 12).

Can I withdraw money?

An explanation of how money may be withdrawn from the *savings account*, including any conditions or consequences for making withdrawals (see note 13).

For *fixed-term savings accounts*, an explanation of what happens at the end of the fixed term.

Additional information

Any other information, the inclusion of which is necessary to make the summary box fair, clear and not misleading including, where applicable, information regarding tax deductions or treatment (see note 14).

Notes:

Note 1: A *firm* may wish to use the annual equivalent rate of interest and, where it does so, it should take account of the British Bankers' Association/Building Societies Association Code of Conduct for the Advertising of Interest Bearing Accounts.

Note 2: If, for example:

-an introductory, promotional, or preferential rate of interest applies to the account until a specified future date or the end of a fixed period; or

-there are ascending or descending tiers of interest rates that apply to certain increments of the balance of the account, or that are determined by reference to the total balance of the account; or

-there are graduated rates of interest, the application of which depends on certain conditions being met or on the *banking customer* taking or refraining from taking certain action;

the summary box should include details of this.

Note 3: 'Reference interest rate' has the same meaning as in the *Payment Services Regulations*.

Note 4: A *firm* may wish to direct the *banking customer's* attention to the relevant clause in the terms and conditions that sets out the reasons for which the *firm* may change the interest rate and the procedure for doing so.

Note 5:

-In the case of a *fixed-term savings account*, the *firm* should include a projection of the balance of the *savings account* on the date on which the fixed term expires.

-Where there is to be a reduction in the rate of interest that applies to the *savings account* on a specified future date, or at the end of a fixed period, as the result of the expiry of an introductory, promotional or preferential rate of interest, the *firm* should include a projection of the balance of the *savings account* on the date of the expiry of that introductory, promotional or preferential rate of interest and a second projection of the balance of the *savings account* on the first anniversary of that date.

-In any other case, the *firm* should include a projection of the balance of the *savings account* on the first anniversary of the opening of the account.

Note 6: In making the projection, a *firm* should assume that £1000 is deposited in the account at the time it is opened and that no further deposits or withdrawals are made, unless this would make the projection misleading. This may be the case, for example, where a *banking customer* is required to make a minimum deposit in excess of £1000 at the time the account is opened or is not permitted to deposit that sum at that time. Where a *banking customer* is required to make periodic deposits at specified intervals, the projection should be based on a pattern of deposits that is representative of the terms and conditions that apply to the account.

Summary Box

Note 7: If different rates of interest apply to the *savings account* in different circumstances, a *firm* should include a number of projections to illustrate the cash returns that the account will generate in those different circumstances. If, for example, there is an uplift in the rate of interest on the condition that the *banking customer* does not make a withdrawal from the *savings account*, a *firm* should include in the summary box both a projection that assumes that the condition is met and a lower projection that assumes that the condition is not met. If different bands of deposit in the *savings account* attract different tiers of interest, a *firm* should include in the summary box several projections that illustrate the cash returns that deposits up to each balance band will generate.

Note 8: The *firm* may wish to include in the summary box that the projection is provided for illustrative purposes only and does not take into account the individual circumstances of the *banking customer*.

Note 9: Where the rate of interest automatically tracks a reference interest rate, the projection may be based on the level of the reference interest rate as it stands at the time the projection is made. Where this is the case, the summary box should indicate that the projection is based on the reference interest rate as it stood on the relevant date and that it does not take into account that the level of the reference interest rate may fluctuate over the period that the projection covers.

Note 10: The summary should, for example, indicate if it is a requirement to open the *savings account* that the *banking customer* holds another account or product with the *firm*.

Note 11: If the *banking customer* is not required to deposit a minimum amount to open the *savings account*, the summary box should include a statement to this effect. Similarly, if there is no limit on the amount that may be held in the *savings account*, the *firm* should state this in the summary box.

Note 12: The summary box should, for example, indicate if the *banking customer* can give instructions to the *firm* about the *savings account* in branch, over the telephone, by electronic mail or through a website.

Note 13: The summary box should indicate if the *banking customer* is required to provide a certain period of notice of an intention to withdraw money from the *savings account*. If interest to which the *banking customer* is entitled is reduced or extinguished, or if a charge is imposed, as a result of withdrawing money from the *savings account*, details of this should be included in the summary box.

Note 14: Where appropriate, a *firm* may wish to include information on the tax implications for the *banking customer*, such as a brief explanation of the tax implications of an *individual savings account*.

Guidance on presentation of interest-rate information in savings account summary box

This annex is referred to in ■ BCOBS 2.2A.2G(3).

| | | |
|-----------------------------------|--|----|
| What is the interest rate? | Interest rate without bonus | X% |
| | Interest rate with bonus (includes a bonus of X%) | X% |
| What is the interest rate? | Interest rate where all conditions are met | X% |
| | Interest rate where one or more conditions are not met | X% |

