

Chapter 4

Communicating with clients, including financial promotions

4.9 Financial promotions with an overseas element

Application

4.9.1

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- (1) Subject to (2) and (3), this section applies to a *firm* in relation to the *communication or approval* of a *financial promotion* that relates to the business of an *overseas person*.
- (2) This section does not apply to a *firm* in relation to its *MiFID or equivalent third country business*.
- (3) If a communication relates to a *firm's* business that is not *MiFID or equivalent third country business*, this section does not apply:
 - (a) to the extent that it is an *excluded communication*;
 - (b) to the extent that it is a prospectus advertisement to which article 22 of the *Prospectus Regulation* applies;
 - (c) if it is *image advertising*;
 - (d) if it is a *non-retail communication*;
 - (e) [deleted]
 - (f) to the extent that it relates to a *pure protection contract* that is a *long-term care insurance contract*.

4.9.2

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Approving a financial promotion for communication by an unauthorised person is not MiFID or equivalent third country business.

Financial promotions for the business of an overseas person

4.9.3

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A *firm* must not *communicate or approve* a *financial promotion* which relates to a particular *relevant investment or relevant business* of an *overseas person*, unless:

- (1) the *financial promotion* makes clear which *firm* has *approved or communicated* it and, where relevant, explains:
 - (a) that the *rules* made under the *Act* for the protection of *retail clients* do not apply;
 - (b) the extent and level to which the *compensation scheme* will be available, or if the scheme will not be available, a statement to that effect; and
 - (c) if the communicator wishes, the protection or compensation available under another system of regulation; and

- (2) the *firm* has taken reasonable steps to satisfy itself that the *overseas person* will deal with *retail clients* in the *United Kingdom* in an honest and reliable way.

Financial promotions for an overseas long-term insurer.....

4.9.4

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A *firm* may only communicate or approve a financial promotion to enter into a life policy with a person who is:

- (1) an *authorised person*; or
- (2) an *exempt person* who is exempt in relation to *effecting or carrying out contracts of insurance* of the class to which the *financial promotion* relates; or
- (3) an *overseas long-term insurer* that is entitled under the law of its home country or territory to carry on there *insurance business* of the class to which the *financial promotion* relates.

4.9.5

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A financial promotion for an *overseas long-term insurer*, which has no establishment in the *United Kingdom*, must include:

- (1) the full name of the *overseas long-term insurer*, the country where it is registered, and, if different, the country where its head office is situated;
- (2) a prominent statement that 'holders of policies issued by the company will not be protected by the Financial Services Compensation Scheme if the company becomes unable to meet its liabilities to them'; and
- (3) if any trustee, investment manager or *United Kingdom* agent of the *overseas long-term insurer* is named which is not independent of the *overseas long-term insurer*, a prominent statement of that fact.

4.9.6

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A financial promotion for an *overseas long-term insurer* which is authorised to carry on *long-term insurance business* in any country or territory listed in paragraph (c) of the Glossary definition of *overseas long-term insurer* must also include:

- (1) the full name of any trustee of property of any description which is retained by the *overseas long-term insurer* in respect of the promoted contracts;
- (2) an indication whether the investment of such property (or any part of it) is managed by the *overseas long-term insurer* or by another *person* and the full name of any *investment manager*;
- (3) the registered office of any such trustee and of any *investment manager* and of his principal office (if different); and
- (4) where any *person* in the *United Kingdom* takes, or may take, any steps on behalf of the *overseas long-term insurer* to enter into a promoted contract, the following details:
 - (a) the full name of the *overseas long-term insurer*;

4.9.7

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If a *financial promotion* relates to a *life policy* with an *overseas long-term insurer* but does not name the *overseas long-term insurer* by giving its full name or its business name:

- (b) the registered office, head office or principal place of business of that *person* in the *United Kingdom*; and
- (c) if there is more than one such *person*, the principal or main *person* in the *United Kingdom*.

- (1) it must include the following prominent statement: "This financial promotion relates to an insurance company which does not, and is not authorised to, carry on in any part of the United Kingdom the class of insurance business to which this promotion relates. This means that the management and solvency of the company are not supervised by the *Financial Conduct Authority* or the *Prudential Regulation Authority*. Holders of policies issued by the company will not have the right to complain to the Financial Ombudsman Service if they have a complaint against the company and will not be protected by the Financial Services Compensation Scheme if the company should become unable to meet its liabilities to them"; and
- (2) if it also refers to other *investments*, it must make this clear.