

Chapter 3

Financial promotions and communications with customers

3.7 Financial promotions and communications: credit brokers

Application

- 3.7.1 **R** This section applies to a *financial promotion* or a communication with a *customer* in relation to *credit broking* in relation to a *regulated credit agreement*.
- 3.7.2 **R** ■ CONC 3.7.4 G also applies to a *financial promotion* or a communication with a *customer* in relation to the activities specified in article 36A(1)(a) or (c) of the *Regulated Activities Order* in relation to a *credit agreement* that would be a *regulated credit agreement* but for the *relevant provisions*.
- 3.7.2A **R** ■ CONC 3.7.5 R to ■ CONC 3.7.8 G:
- (1) apply to a *financial promotion* or a communication with a *customer* in relation to *credit broking* whether or not it is in relation to a *regulated credit agreement*; but
 - (2) do not apply to a *financial promotion* or a communication with a *customer* which clearly indicates that it is made solely in respect of *credit broking* in relation to a *credit agreement* secured by a *legal or equitable mortgage on land*.

Credit brokers' registered name, and status

- 3.7.3 **R** A *firm* must, in a *financial promotion* or a document which is intended for *individuals* which relates to its *credit broking*, indicate the extent of its powers and in particular whether it works exclusively with one or more *lenders* or works independently.

[Note: section 160A(3) of CCA]

[Note: article 21(a) of the *Consumer Credit Directive*]

- 3.7.4 **G** A *firm* should in a *financial promotion* or in a communication with a *customer*:

- (1) make clear, to the extent an average *customer* of the *firm* would understand, the nature of the service that the *firm* provides;

[Note: paragraphs 3.7e and 4.8b of CBG]

- (2) indicate to the *customer* in a prominent way the existence and nature of any financial arrangements with a *lender* that might impact upon the *firm's* impartiality in promoting or recommending a *credit* product to the *customer* or which might, if disclosed by the *firm* to the *customer*, affect the *customer's* transactional decision in relation to the *credit* product;

[Note: paragraphs 2.2, 6th bullet and 4.6 of *CBG*]

- (3) only describe itself as independent if it is able to provide access to a representative range of *credit* products from the relevant product market on competitive terms and is not constrained in providing such access, for example, because of one or more agreements with *lenders*; and

[Note: paragraph 4.5 of *CBG*]

- (4) ensure that any disclosure about the extent of its independence is prominent and in accordance with the clear, fair not misleading *rule* in ■ CONC 3.3.1 R, clear and easily comprehensible.

[Note: paragraph 4.6 of *CBG*]

3.7.4A

G

- (1) Where the amount of any commission, fee or other remuneration payable under a financial arrangement in relation to the *credit* product in ■ CONC 3.7.4G(2) that the *firm* is promoting or recommending varies due to a factor specified in the arrangement, for example a specific feature of the *credit* product or the level of work undertaken by the *firm*, the *firm* should make disclosure under ■ CONC 3.7.4G in relation to the arrangement.

- (2) Where:

- (a) the *firm* has entered into arrangements (irrespective of how many other *persons* those arrangements are with) under which it may earn commission, fees or other remuneration in relation to two or more different *credit* products;
- (b) the *customer* could be eligible for two or more of those *credit* products;
- (c) the *credit* product that the *firm* is promoting or recommending is one of those *credit* products; and
- (d) the commission, fees or other remuneration payable to the *firm* varies depending on which of the *credit* products the *customer* takes out,

the *firm* should make disclosure to the *customer* under ■ CONC 3.7.4G in relation to the arrangements.

- (3) The disclosure in (2) may be in general terms, but it should enable the *customer* reasonably to appreciate the effect of the arrangements.

3.7.5

R

A *firm* must ensure that a *financial promotion* or a communication with a *customer* specifies the legal name of the *firm* as it appears in the *Financial Services Register* and not merely a trading name.

- 3.7.6** **G** ■ CONC 3.7.5 R requires all *financial promotions* and communications with *customers* to specify the legal name of the *firm*: the *rule* does not prohibit the use of trading names, but does require the legal name to be given in addition to any trading name used. If the *firm* is a company registered under the Companies Act 2006, the *firm's* legal name will be the name by which it is registered.
- 3.7.7** **R**
- (1) A *firm* which is a *credit broker* and not a *lender* must ensure that any *financial promotion* states prominently that the *firm* is a *credit broker* and that it is not a *lender*.
 - (2) A *firm* which is both a *credit broker* and a *lender* must ensure that any *financial promotion* that solely promotes its services as a *credit broker* states prominently that the *financial promotion* is promoting the *firm's* services as a *credit broker* and not its services as a *lender*.
- 3.7.8** **G** For the purposes of ■ CONC 3.7.7 R, a statement will not be treated as prominent unless it is presented, in relation to other content of the *financial promotion*, in such a way that it is likely that the attention of the average *person* to whom the *financial promotion* is directed would be drawn to it.