

**General Provisions**

## Chapter 4

# Statutory status disclosure

## 4.5 Statements about authorisation and regulation by the appropriate regulator

### Application

- 4.5.1** **R** This section applies to a *firm*:
- (1) communicating with a *customer*; or
  - (2) *communicating or approving a financial promotion* other than:
    - (a) a *financial promotion* that would benefit from an exemption in the *Financial Promotion Order* if it were *communicated* by an *unauthorised person*;
    - (b) a promotion of an *unregulated collective investment scheme* that would breach section 238(1) of the *Act* if made by an *authorised person* (*firms* may not *communicate or approve* such promotions).
- 4.5.1A** **R**
- (1) This section also applies to a *registered person communicating a financial promotion* relating to one or more *qualifying cryptoassets* (in reliance on the exemption in article 73ZA of the *Financial Promotion Order*).
  - (2) For the purpose of (1), references in this section to a *firm* include reference to a *registered person*.
- 4.5.1B** **G** As *unauthorised persons, registered persons* must also ensure that they do not contravene section 24 of the *Act* (False claims to be authorised or exempt).
- 4.5.2** **G** ■ GEN 4.5.1 R (1) does not apply to a *firm* when communicating with an *eligible counterparty*.
- 4.5.2A** **G** However, misleading statements by a *firm* when communicated with an *eligible counterparty* may involve a breach of *Principle 7* (Communications with clients) or Part 7 (Offences relating to financial services) of the *Financial Services Act 2012*, as well as giving rise to private law actions for misrepresentation.

The duty

- 4.5.3 R A *firm* must not indicate or imply that it is authorised by the *FCA* in respect of business for which it is not so authorised.
- 4.5.3A R A *firm* must not indicate or imply that it is authorised by the *PRA* in respect of business for which it is not so authorised.
- 4.5.4 R A *firm* must not indicate or imply that it is regulated or otherwise supervised by the *FCA* in respect of business for which it is not regulated by the *FCA*.
- 4.5.4A R A *firm* must not indicate or imply that it is regulated or otherwise supervised by the *PRA* in respect of business for which it is not regulated by the *PRA*.
- 4.5.5 G [deleted]
- 4.5.6 G It is likely to be misleading for a *firm* that is not *authorised* by the *FCA* or *PRA* to state or imply that it is so *authorised*. It is also likely to be misleading for a *firm* to state or imply that a *client* will have recourse to the *Financial Ombudsman Service* or the *FSCS* where this is not the case.  
  
(3) [deleted]
- 4.5.6A G As well as potentially breaching the requirements in this section, misleading statements by a *firm* may involve a breach of *Principle 7* (Communications with clients) or section Part 7 (Offences relating to financial services) of the *Financial Services Act 2012*, as well as giving rise to private law actions for misrepresentation.