

## Chapter 3A

# Financial promotions and communications with customers



## **3A.1 Application and purpose**

### **Who?**

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**3A.1.1**

**R**

This chapter applies to a *firm*:

- (1) *communicating* information to a *customer* in relation to a *home finance transaction*; or
- (2) *communicating* or *approving* a *financial promotion* of *qualifying credit*, a *home reversion plan*, a *home purchase plan* or a *regulated sale and rent back agreement*.

**3A.1.2**

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As a result of this chapter and **CONC 3**:

- (1) a *financial promotion* is not subject to **CONC 3** to the extent that it relates to *qualifying credit*; and
- (2) where a *firm* makes a communication which consists of a *financial promotion* of *qualifying credit* and a *financial promotion* of a different form of lending that is not *qualifying credit* (for example, an unsecured personal loan), the content of the latter will need to comply with **CONC 3**.

### **Authorised professional firms**

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**3A.1.3**

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- (1) Except for **MCOB 3A.5**, **MCOB 3A** does not apply to an *authorised professional firm* in relation to the *communication* of a *financial promotion* if the following conditions are satisfied:
  - (a) the *firm's* main business must be the practice of its profession;
  - (b) the *financial promotion* must be made for the purposes of, and incidental to, the promotion or provision by the *firm* of:
    - (i) its professional services; or
    - (ii) its *non-mainstream regulated activities* (see **PROF 5.2** (Nature of non-mainstream activities)); and
  - (c) the *financial promotion* must not be *communicated* on behalf of another *person* who would not be able lawfully to *communicate* the *financial promotion* if they were acting in the course of business.
- (2) in (1)(a), a *firm's* professional business practice is not the "main business" of the *firm* unless the proportion of income it derives from professional fees is, during its annual accounting period, at least 50%

of the *firm's* total income (a temporary variation of not more than 5% may be disregarded for this purpose).

- (3) in (1)(b)(i), "professional services" means services:
  - (a) which do not constitute a *regulated activity*; and
  - (b) the provision of which is supervised and regulated by a *designated professional body*.

**Application for a financial promotion of qualifying credit**

**3A.1.4**

**R**

This chapter applies to the *communication or approval of a financial promotion of qualifying credit* as follows:

Application and purpose	MCOB 3A.1
The fair, clear and not misleading rules	MCOB 3A.2, except MCOB 3A.2.5 R
Other general requirements for financial promotions	MCOB 3A.3
Qualifying credit financial promotions	MCOB 3A.4
MCD financial promotions (note 1)	MCOB 3A.5
Systems and controls	MCOB 3A.9
Note 1: This item does not apply to non-MCD <i>financial promotions of qualifying credit</i> .	

**Application for a financial promotion of a home reversion plan**

**3A.1.5**

**R**

This chapter applies to the *communication or approval of a financial promotion of a home reversion plan* as follows:

Application and purpose	MCOB 3A.1
The fair, clear and not misleading rules	MCOB 3A.2, except MCOB 3A.2.5 R
Other general requirements for financial promotions	MCOB 3A.3
Home reversion plan financial promotions	MCOB 3A.7
Systems and controls	MCOB 3A.9

**Application for a financial promotion of a regulated sale and rent back agreement**

**3A.1.6**

**R**

This chapter applies to the *communication or approval of a financial promotion of a regulated sale and rent back agreement* as follows:

Application and purpose	MCOB 3A.1
The fair, clear and not misleading rules	MCOB 3A.2, except MCOB 3A.2.5 R
Other general requirements for financial promotions	MCOB 3A.3
Sale and rent back financial promotions	MCOB 3A.8

Systems and controls	MCOB 3A.9
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**Application for a financial promotion of a home purchase plan**

**3A.1.7** **R** This chapter applies to the *communication or approval of a financial promotion of a home purchase plan* as follows:

Application and purpose	MCOB 3A.1
Fair, clear and not misleading rule for approval of home purchase plan financial promotions	MCOB 3A.2.5 R
Home purchase plan financial promotions	MCOB 3A.6

**Exemptions**

**3A.1.8** **R** Except for **■ MCOB 3A.2.4R (2)** and **■ MCOB 3A.5**, this chapter does not apply to a *firm* in relation to a *financial promotion of qualifying credit* that is of a kind listed in **■ MCOB 3A.1.9 R**, except if the *firm* approves the *financial promotion*, then the following apply:

- (1) **■ MCOB 3A.1** (Application and purpose);
- (2) **■ MCOB 3A.2.4 R** (Fair, clear and not misleading financial promotions);
- (3) **■ MCOB 3A.4.4 G** to **■ MCOB 3A.4.7 G** (Approval of qualifying credit promotions; No approval of real time qualifying credit promotions; Approval of qualifying credit promotions when not all the rules apply); and
- (4) if the *firm* approves a non-real time *financial promotion of qualifying credit* by an *overseas person* **■ MCOB 3A.4.8 R** (Non-real time qualifying credit promotions for overseas persons) applies.

**3A.1.9** **R** This table belongs to **■ MCOB 3A.1.8 R**.

<b>Exemptions</b>	
This chapter does not apply to the following:	
(1)	a <i>financial promotion</i> which contains only one or more of the following
(a)	the name of the <i>firm</i> (or its <i>appointed representative</i> );
(b)	a logo;
(c)	a contact point (address (including an email address), telephone or facsimile number);
(d)	a brief, factual statement of the <i>firm's</i> (or its <i>appointed representative's</i> ) main occupation;
(2)	a <i>financial promotion</i> which can lawfully be <i>communicated</i> by an <i>unauthorised person</i> without <i>approval</i> ;
(3)	a <i>financial promotion</i> communicated from outside the <i>United Kingdom</i> which would be exempt under articles 30, 31, 32 or 33 of the <i>Financial Promotion Order</i> (Overseas communicators) if the office from which the <i>financial promotion</i> is <i>communicated</i> were a separate <i>unauthorised person</i> (but see <b>GEN 4.4.1 R</b> (Business for private customers from non-UK offices)).

**Combination of exemptions**

**3A.1.10** **R** A firm may rely on more than one exemption in relation to the same financial promotion.

**3A.1.11** **G** Firms are reminded that financial promotions (including those which are exempt) may be subject to more general rules, including Principle 7 (Communications with clients), ■ SYSC 3 to ■ SYSC 10 (Systems and controls), and ■ MCOB 3A.2.4 R (Fair, clear and not misleading communications).

**3A.1.11A** **G**

- (1) Firms are also reminded that 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.

**Territorial scope**

**3A.1.12** **G** The territorial scope for rules relating to communicating information to a customer is set out in ■ MCOB 1.3.1 R.

**3A.1.13** **R** This chapter applies to a firm in relation to:

- (1) the communication of a financial promotion to a person in the United Kingdom;
- (2) the communication of a cold call of qualifying credit, a home reversion plan or a regulated sale and rent back agreement, unless it is made from a place, and for the purposes of a business which is only carried on, outside the United Kingdom;
- (3) the approval of a non-real time financial promotion of qualifying credit, a home reversion plan or a regulated sale and rent back agreement for communication to a person in the United Kingdom.
- (4) [deleted]
- (5) [deleted]

**3A.1.14** **G** The application under ■ MCOB 3A.1.13 R is relevant both when a firm communicates a financial promotion itself and when a firm approves a non-real time financial promotion for communication by others. However, see also ■ MCOB 3A.1.15 R (Exceptions to territorial scope: rules without territorial limitation for approval of financial promotions).

**Exceptions to territorial scope: rules without territorial limitation for approval of financial promotions**

**3A.1.15** **R** Subject to ■ MCOB 3A.1.16 R, the following parts of this chapter apply without any territorial limitation if a firm approves a financial promotion of

*qualifying credit, a home reversion plan or a regulated sale and rent back agreement:*

- (1) ■ MCOB 3A.1 (Application and purpose);
- (2) *rules* requiring a *financial promotion* to be fair, clear and not misleading (see ■ MCOB 3A.2.4 R); and
- (3) provisions regarding the *approval of financial promotions* (except those relating to *approval of financial promotions of qualifying credit* provided by an *overseas person*) (see ■ MCOB 3A.4.4 G to ■ MCOB 3A.4.7 G, ■ MCOB 3A.7.1 R and ■ MCOB 3A.8.5 R).

**Exceptions to territorial scope: financial promotions of qualifying credit relating to distance contracts**

3A.1.16

**R**

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**Principles 6 and 7**

3A.1.17

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This chapter amplifies, for activities within its scope, *Principle 6* (Customers' interests) and *Principle 7* (Communications with clients).