Chapter 2

Communications and financial promotions
2.1 Purpose and Application: Who and what?

2.1.1 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, an EEA authorised electronic money institution, a payment institution, a registered account information service provider and an EEA 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 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 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 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 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.
2.2 The fair, clear and not misleading rule

2.2.1 
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 
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 
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 (Systems and controls and approving and communicating financial promotions) and this chapter of BCOBS.

2.2.4 
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 
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 
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 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.
2.2A Summary box for savings accounts

2.2A.1

(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  

(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.
2.3 Other general requirements for communications and financial promotions

2.3.1 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 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 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.
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.

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.

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.

The Depositor Protection Part of the PRA Rulebook may apply in relation to communications with a banking customer.

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.

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.

If a communication or a 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.

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.

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.

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.
2.4 Cash deposit ISAs and cash deposit CTFs

2.4.1 [deleted]

2.4.2 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

<table>
<thead>
<tr>
<th>Summary Box</th>
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<tbody>
<tr>
<td><strong>Account name</strong></td>
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<tr>
<td><strong>What is the interest rate?</strong></td>
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<tr>
<td><strong>Can [name of firm] change the interest rate?</strong></td>
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<td></td>
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<tr>
<td><strong>What would the estimated balance be after [x] months based on a £[x] deposit?</strong></td>
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<tr>
<td></td>
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<tr>
<td><strong>How do I open and manage my account?</strong></td>
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</table>
**Summary Box**

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Can I withdraw money?</strong></td>
<td>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.</td>
</tr>
<tr>
<td><strong>Additional information</strong></td>
<td>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).</td>
</tr>
</tbody>
</table>

**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.
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).

<table>
<thead>
<tr>
<th>What is the interest rate?</th>
<th>Interest rate without bonus</th>
<th>X%</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Interest rate with bonus (includes a bonus of X%)</td>
<td>X%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>What is the interest rate?</th>
<th>Interest rate where all conditions are met</th>
<th>X%</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Interest rate where one or more conditions are not met</td>
<td>X%</td>
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