

Chapter 2

Communications and financial promotions



2.1 Purpose and Application: Who and what?

- 2.1.1

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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*, a *payment institution* and a *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

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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

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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

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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

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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*.

Approving financial promotions: permission

2.1.5

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- (1) 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*.