

## Chapter 2

# Communications and financial promotions

		<div>2.2</div> <div>The fair, clear and not misleading rule</div>
2.2.1	R	A <i>firm</i> or other provider must take reasonable steps to ensure that a communication, <i>financial promotion</i> or <i>payment service</i> or <i>electronic money promotion</i> is fair, clear and not misleading.
2.2.2	G	The fair, clear and not misleading <i>rule</i> 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 <i>banking customer</i> , a <i>payment service customer</i> or an <i>electronic money customer</i> who is not a <i>consumer</i> may not need to include the same information, or be presented in the same way, as a communication addressed to a <i>consumer</i> .
2.2.3	G	The <i>rules</i> in ■ SYSC 3 (Systems and Controls) and ■ SYSC 4 (General organisational requirements) require a <i>firm</i> to put in place systems and controls or policies and procedures in order to comply with the <i>rules</i> in ■ COBS 4.6 (Past, simulated past and future performance), ■ COBS 4.7.1 R (Direct offer financial promotions), ■ COBS 4.10 (Approving and confirming compliance of financial promotions) and this chapter of <i>BCOBS</i> .
2.2.4	G	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	G	<p>A communication, <i>financial promotion</i> or <i>payment service</i> or <i>electronic money promotion</i> should not describe a feature of a product or service as "guaranteed", "protected" or "secure", or use a similar term unless:</p> <div><div>(1)</div>that term is capable of being a fair, clear and not misleading description of it; and</div> <div><div>(2)</div>the <i>firm</i> 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.</div>
2.2.5A	G	A communication, or <i>payment service</i> or <i>electronic money promotion</i> relating to a <i>currency transfer service</i> 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 <i>person</i> or a class of <i>persons</i> if that rate is unlikely to be

obtained by that *person* or class of *persons* with respect to a typical transaction.

**2.2.5B** G 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.

**2.2.6** G A communication or a *financial promotion* that refers to sums available by way of an *authorised non-business overdraft agreement* should make clear that such sums constitute borrowing or credit.

**2.2.7** G A *firm* is reminded of its obligations under ■ **ESG 4.3.1R** when it *communicates or approves a financial promotion* that references the *sustainability characteristics* of a product or service.