

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).

- 4.5.2 **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*.

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- 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.