

## Chapter 4

# Statutory status disclosure

4.5 Statements about authorisation and regulation by the appropriate regulator

Application

- 4.5.1

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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).
- 4.5.1A

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- (1) This section also applies to a *registered person communicating a financial promotion* relating to one or more *qualifying cryptoassets* (in reliance on the exemption in article 73ZA of the *Financial Promotion Order*).
  - (2) For the purpose of (1), references in this section to a *firm* include reference to a *registered person*.
- 4.5.1B

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As *unauthorised persons, registered persons* must also ensure that they do not contravene section 24 of the *Act* (False claims to be authorised or exempt).
- 4.5.2

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■ GEN 4.5.1 R (1) does not apply to a *firm* when communicating with an *eligible counterparty*.
- 4.5.2A

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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 <i>firm</i> must not indicate or imply that it is authorised by the <i>FCA</i> in respect of business for which it is not so authorised.
4.5.3A	R	A <i>firm</i> must not indicate or imply that it is authorised by the <i>PRA</i> in respect of business for which it is not so authorised.
4.5.4	R	A <i>firm</i> must not indicate or imply that it is regulated or otherwise supervised by the <i>FCA</i> in respect of business for which it is not regulated by the <i>FCA</i> .
4.5.4A	R	A <i>firm</i> must not indicate or imply that it is regulated or otherwise supervised by the <i>PRA</i> in respect of business for which it is not regulated by the <i>PRA</i> .
4.5.5	G	[deleted]
4.5.6	G	It is likely to be misleading for a <i>firm</i> that is not <i>authorised</i> by the <i>FCA</i> or <i>PRA</i> to state or imply that it is so <i>authorised</i> . It is also likely to be misleading for a <i>firm</i> to state or imply that a <i>client</i> will have recourse to the <i>Financial Ombudsman Service</i> or the <i>FSCS</i> 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 <i>firm</i> may involve a breach of <i>Principle 7</i> (Communications with clients) or section Part 7 (Offences relating to financial services) of the <i>Financial Services Act 2012</i> , as well as giving rise to private law actions for misrepresentation.