

Insurance: Conduct of Business

Chapter 2

General matters

2.2 Communications to clients and financial promotions

Application

2.2.1 **R** In addition to the general application *rule* for this sourcebook, this section applies to the *communication, or approval for communication, to a person in the United Kingdom of a financial promotion of a non-investment insurance contract* unless it can lawfully be *communicated* by an unauthorised communicator without *approval*.

Clear, fair and not misleading rule

2.2.2 **R** When a *firm* communicates information, including a *financial promotion, to a customer* it must ensure that is clear, fair and not misleading.
[Note: article 17(2) of the *IDD*]

Marketing communications

2.2.2A **R** A *firm* must ensure that, in relation to *insurance distribution, marketing communications* are always clearly identifiable as such.
[Note: article 17(2) of the *IDD*]

Approving financial promotions

2.2.3 **R**

- (1) Before a *firm approves a financial promotion* it must take reasonable steps to ensure that the *financial promotion* is clear, fair and not misleading.
- (2) If, subsequently, a *firm* becomes aware that a *financial promotion* is not clear, fair and not misleading, it must withdraw its *approval* and notify any *person* that it knows to be relying on its approval as soon as reasonably practicable.

Pricing claims: guidance on the clear, fair and not misleading rule

2.2.4 **G**

- (1) This *guidance* applies in relation to a *financial promotion* that makes pricing claims, including *financial promotions* that indicate or imply that a *firm* can reduce the *premium, provide the cheapest premium* or reduce a *customer's costs*.
- (2) Such a *financial promotion* should:

- (a) be consistent with the result reasonably expected to be achieved by the majority of *customers* who respond, unless the proportion of those *customers* who are likely to achieve the pricing claims is stated prominently;
- (b) state prominently the basis for any claimed benefits and any significant limitations; and
- (c) comply with other relevant legislative requirements, including the Consumer Protection from Unfair Trading Regulations 2008 and the Business Protection from Misleading Marketing Regulations 2008.

The reasonable steps defence

2.2.5

R

If, in relation to a particular communication or *financial promotion*, a *firm* takes reasonable steps to ensure it is fair, clear and not misleading then:

- (1) the *firm* will not contravene ■ ICOBS 2.2.2R where:
 - (a) the recipient is a *customer* that does not make the arrangements preparatory to the conclusion of the *contract of insurance*; or
 - (b) the communication is made in relation to activities other than *insurance distribution*; and
- (2) a contravention of the clear, fair and not misleading rule (■ ICOBS 2.2.2R) does not give rise to a right of action under section 138D of the *Act*.