Chapter 3

Financial Promotion of qualifying credit, home reversion plans and regulated sale and rent back agreements
A firm should note that MCOB 3.7.3 R (Prohibition on unsolicited real time promotions to customers) prevents a firm from communicating to a customer an unsolicited real time financial promotion of qualifying credit other than an exempt promotion (which is outside the scope of this chapter) or where MCOB 3.7.3 R applies. Many solicited real time financial promotion will be exempt promotions (and, therefore, outside the scope of this chapter). Accordingly, MCOB 3.8.2 R and MCOB 3.8.3 G apply only to solicited real time financial promotions which are not exempt financial promotions and to unsolicited real time financial promotion of qualifying credit within MCOB 3.7.3 R.

A firm must ensure that an individual who makes a real time financial promotion of qualifying credit on the firm’s behalf:

(1) does so in a way which is clear, fair and not misleading;

(2) does not make any untrue claims;

(3) makes clear the purpose (or purposes) of the financial promotion at the initial point of communication, and identifies himself and the firm which he represents;

(4) if the time and method of communication were not previously agreed by the recipient:
   
   (a) checks that the recipient wishes him to proceed;
   
   (b) terminates the communication if the recipient does not wish him to proceed (but may ask for another appointment);
   
   (c) recognises and respects, promptly, the right of the recipient to:
      
      (i) end the communication at any time;
      
      (ii) refuse any request for another appointment;

(5) gives any person with whom he arranges an appointment a contact point;

(6) does not communicate with a person:
   
   (a) at an unsocial hour, unless the person has previously agreed to such a communication;
   
   (b) on an unlisted telephone number, unless the person has previously agreed to such calls on that number.
3.8.3 In MCOB 3.8.2 R(6)(a) an unsocial hour usually means on a Sunday or before 9am or after 9pm on any other day. It could also mean other days of the week or other times if the firm knows that a particular customer would not wish to be called on that day or at that time for reasons of, for example, religious faith or night shift working.

3.8.4 The requirements of MCOB 3.8.2 R and MCOB 3.8.3 G:

1. apply in respect of all individuals who initiate the communication, including advisers and call centre operators;

2. apply to all forms of real time financial promotion of qualifying credit with customers, including face-to-face and telephone financial promotion;

3. but do not prevent, for example, a telephone call centre which has received a call from a customer at an hour generally regarded as unsocial, either responding to that call or asking during the call if the customer would like details of other qualifying credit.

3.8.5 SYSC 3.2.20 R (Records) requires a firm to take reasonable care to make and retain certain records. For a telemarketing campaign to which MCOB 3.8.2 R and MCOB 3.8.3 G apply, those records should include copies of any scripts used.

3.8.6 Firms should note the additional disclosure requirements in MCOB 4.4A.17 R (Additional disclosure where initial contact is by telephone), MCOB 4.4A.18 R (Additional disclosure requirements where the services are to be provided to a consumer under a distance contract) and MCOB 4.5 (Additional disclosure for distance mortgage mediation contracts and distance home purchase mediation contracts with retail customers) in relation to telephone calls that may fall within the definition of a financial promotion.