

Chapter 3A

Financial promotions and communications with customers



3A.1 Application and purpose

Who?

3A.1.1

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This chapter applies to a *firm*:

- (1) *communicating* information to a *customer* in relation to a *home finance transaction*; or
- (2) *communicating or approving a financial promotion of qualifying credit, a home reversion plan, a home purchase plan or a regulated sale and rent back agreement.*

3A.1.2

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As a result of this chapter and **CONC 3**:

- (1) a *financial promotion* is not subject to **CONC 3** to the extent that it relates to *qualifying credit*; and
- (2) where a *firm* makes a communication which consists of a *financial promotion of qualifying credit* and a *financial promotion of a different form of lending that is not qualifying credit* (for example, an unsecured personal loan), the content of the latter will need to comply with **CONC 3**.

Authorised professional firms

3A.1.3

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- (1) Except for **MCOB 3A.5**, **MCOB 3A** does not apply to an *authorised professional firm* in relation to the *communication of a financial promotion* if the following conditions are satisfied:
 - (a) the *firm's* main business must be the practice of its profession;
 - (b) the *financial promotion* must be made for the purposes of, and incidental to, the promotion or provision by the *firm* of:
 - (i) its professional services; or
 - (ii) its *non-mainstream regulated activities* (see **PROF 5.2** (Nature of non-mainstream activities)); and
 - (c) the *financial promotion* must not be *communicated* on behalf of another *person* who would not be able lawfully to *communicate* the *financial promotion* if they were acting in the course of business.
- (2) in (1)(a), a *firm's* professional business practice is not the "main business" of the *firm* unless the proportion of income it derives from professional fees is, during its annual accounting period, at least 50%

of the *firm's* total income (a temporary variation of not more than 5% may be disregarded for this purpose).

- (3) in (1)(b)(i), "professional services" means services:
 - (a) which do not constitute a *regulated activity*; and
 - (b) the provision of which is supervised and regulated by a *designated professional body*.

Application for a financial promotion of qualifying credit

3A.1.4

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This chapter applies to the *communication or approval of a financial promotion of qualifying credit* as follows:

Application and purpose	MCOB 3A.1
The fair, clear and not misleading rules	MCOB 3A.2, except MCOB 3A.2.5 R
Other general requirements for financial promotions	MCOB 3A.3
Qualifying credit financial promotions	MCOB 3A.4
MCD financial promotions (note 1)	MCOB 3A.5
Systems and controls	MCOB 3A.9
Note 1: This item does not apply to non-MCD <i>financial promotions of qualifying credit</i> .	

Application for a financial promotion of a home reversion plan

3A.1.5

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This chapter applies to the *communication or approval of a financial promotion of a home reversion plan* as follows:

Application and purpose	MCOB 3A.1
The fair, clear and not misleading rules	MCOB 3A.2, except MCOB 3A.2.5 R
Other general requirements for financial promotions	MCOB 3A.3
Home reversion plan financial promotions	MCOB 3A.7
Systems and controls	MCOB 3A.9

Application for a financial promotion of a regulated sale and rent back agreement

3A.1.6

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This chapter applies to the *communication or approval of a financial promotion of a regulated sale and rent back agreement* as follows:

Application and purpose	MCOB 3A.1
The fair, clear and not misleading rules	MCOB 3A.2, except MCOB 3A.2.5 R
Other general requirements for financial promotions	MCOB 3A.3
Sale and rent back financial promotions	MCOB 3A.8

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Systems and controls MCOB 3A.9

Application for a financial promotion of a home purchase plan

3A.1.7 **R** This chapter applies to the *communication or approval of a financial promotion of a home purchase plan* as follows:

Application and purpose	MCOB 3A.1
Fair, clear and not misleading rule for approval of home purchase plan financial promotions	MCOB 3A.2.5 R
Home purchase plan financial promotions	MCOB 3A.6

Exemptions

3A.1.8 **R** Except for **■ MCOB 3A.2.4R (2)** and **■ MCOB 3A.5**, this chapter does not apply to a *firm* in relation to a *financial promotion of qualifying credit* that is of a kind listed in **■ MCOB 3A.1.9 R**, except if the *firm* approves the *financial promotion*, then the following apply:

- (1) **■ MCOB 3A.1** (Application and purpose);
- (2) **■ MCOB 3A.2.4 R** (Fair, clear and not misleading financial promotions);
- (3) **■ MCOB 3A.4.4 G** to **■ MCOB 3A.4.7 G** (Approval of qualifying credit promotions; No approval of real time qualifying credit promotions; Approval of qualifying credit promotions when not all the rules apply); and
- (4) if the *firm* approves a non-real time *financial promotion of qualifying credit* by an *overseas person* **■ MCOB 3A.4.8 R** (Non-real time qualifying credit promotions for overseas persons) applies.

3A.1.9 **R** This table belongs to **■ MCOB 3A.1.8 R**.

Exemptions	
This chapter does not apply to the following:	
(1)	a <i>financial promotion</i> which contains only one or more of the following <ul style="list-style-type: none"> (a) the name of the <i>firm</i> (or its <i>appointed representative</i>); (b) a logo; (c) a contact point (address (including an email address), telephone or facsimile number); (d) a brief, factual statement of the <i>firm's</i> (or its <i>appointed representative's</i>) main occupation;
(2)	a <i>financial promotion</i> which can lawfully be <i>communicated</i> by an <i>unauthorised person</i> without <i>approval</i> ;
(3)	a <i>financial promotion</i> communicated from outside the <i>United Kingdom</i> which would be exempt under articles 30, 31, 32 or 33 of the <i>Financial Promotion Order</i> (Overseas communicators) if the office from which the <i>financial promotion</i> is <i>communicated</i> were a separate <i>unauthorised person</i> (but see GEN 4.4.1 R (Business for private customers from non-UK offices)).

Combination of exemptions

3A.1.10 **R** A firm may rely on more than one exemption in relation to the same financial promotion.

3A.1.11 **G** Firms are reminded that financial promotions (including those which are exempt) may be subject to more general rules, including Principle 7 (Communications with clients), ■ SYSC 3 to ■ SYSC 10 (Systems and controls), and ■ MCOB 3A.2.4 R (Fair, clear and not misleading communications).

3A.1.11A **G**

- (1) Firms are also reminded that the effect of section 55NA of the Act is that a firm is unable to approve a financial promotion unless:
 - (a) the firm is a permitted approver in relation to the financial promotion; or
 - (b) an approver permission exemption applies.
- (2) ■ SUP 6A contains guidance on applying for approver permission.

Territorial scope

3A.1.12 **G** The territorial scope for rules relating to communicating information to a customer is set out in ■ MCOB 1.3.1 R.

3A.1.13 **R** This chapter applies to a firm in relation to:

- (1) the communication of a financial promotion to a person in the United Kingdom;
- (2) the communication of a cold call of qualifying credit, a home reversion plan or a regulated sale and rent back agreement, unless it is made from a place, and for the purposes of a business which is only carried on, outside the United Kingdom;
- (3) the approval of a non-real time financial promotion of qualifying credit, a home reversion plan or a regulated sale and rent back agreement for communication to a person in the United Kingdom.
- (4) [deleted]
- (5) [deleted]

3A.1.14 **G** The application under ■ MCOB 3A.1.13 R is relevant both when a firm communicates a financial promotion itself and when a firm approves a non-real time financial promotion for communication by others. However, see also ■ MCOB 3A.1.15 R (Exceptions to territorial scope: rules without territorial limitation for approval of financial promotions).

Exceptions to territorial scope: rules without territorial limitation for approval of financial promotions

3A.1.15 **R** Subject to ■ MCOB 3A.1.16 R, the following parts of this chapter apply without any territorial limitation if a firm approves a financial promotion of

qualifying credit, a home reversion plan or a regulated sale and rent back agreement:

- (1) ■ MCOB 3A.1 (Application and purpose);
- (2) *rules requiring a financial promotion to be fair, clear and not misleading (see ■ MCOB 3A.2.4 R); and*
- (3) *provisions regarding the approval of financial promotions (except those relating to approval of financial promotions of qualifying credit provided by an overseas person) (see ■ MCOB 3A.4.4 G to ■ MCOB 3A.4.7 G, ■ MCOB 3A.7.1 R and ■ MCOB 3A.8.5 R).*

Exceptions to territorial scope: financial promotions of qualifying credit relating to distance contracts

3A.1.16

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Principles 6 and 7

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This chapter amplifies, for activities within its scope, *Principle 6* (Customers' interests) and *Principle 7* (Communications with clients).