

Chapter 14

Guidance on home reversion and home purchase activities

14.8 Financial promotions

Q43. Are there any restrictions if I wish to promote my home finance activities?

Yes. The restriction in section 21 of the Financial Services and Markets Act 2000 will apply, broadly speaking, to any communication which:

- is made in the course of business; and
- invites or induces persons to:
 - become a *reversion occupier, SRB agreement seller or home purchaser*; or
 - become a *reversion provider or SRB agreement provider*; or
 - vary the terms of a *home reversion plan or a home purchase plan* that was originally established on or after 6 April 2007 or a *regulated sale and rent back agreement* that was originally established on or after 1 July 2009; or
 - be provided, as a *reversion occupier, SRB agreement seller or home purchaser* or as a *reversion provider or SRB agreement provider*, with arranging or advisory services.

Communications of this kind are termed *financial promotions*.

Promotions of *home finance administration* services or promotions intended to dissuade persons from entering into or varying the terms of regulated plans will not be financial promotions and so no restriction will apply to them.

The following table summarises when the restriction will apply.

Table indicating when the financial promotion restriction will apply to communications about home finance plans.

A communication inviting or inducing...	To...	Will be a financial promotion?
...potential reversion occupiers, <i>SRB agreement sellers</i> or home purchasers	...enter into a home reversion plan, <i>regulated sale and rent back agreement</i> , or a home purchase plan	Yes
...potential home reversion purchasers or transferees or <i>SRB agreement providers</i> or transferees	...enter into a home reversion plan or <i>regulated sale and rent back agreement</i>	Yes (in the case of transferees, regardless of whether the plan was originally established before 6 April 2007 in the case of <i>home reversion</i> transferees and 1 July 2009 in the case of <i>regulated sale and rent</i>

A communication inviting or inducing...	To...	Will be a financial promotion?
		<i>back agreement transferees</i>)
...potential home purchase providers	...enter into a home purchase plan	Yes
...potential or existing: <ul style="list-style-type: none"> • reversion occupiers, <i>SRB agreement sellers</i> or home purchasers; or • reversion or home purchase providers or <i>SRB agreement providers</i> 	...be provided with administration services	No
...potential or existing: <ul style="list-style-type: none"> • reversion occupiers, <i>SRB agreement sellers</i> or home purchasers; or • reversion purchasers or transferees or <i>SRB agreement providers</i> or transferees 	...be provided with arranging or advisory services	Yes (but where the promotion relates to such a person varying the terms of a plan or agreement, this is only where the plan or agreement was originally established on or after 6 April 2007 in the case of <i>home reversion plans</i> or <i>home purchase plan</i> and 1 July 2009 in the case of <i>regulated sale and rent back agreements</i>)
...potential or existing home purchase providers	...be provided with arranging or advisory services	No in relation to advisory services Yes in relation to arranging services
...potential or existing: <ul style="list-style-type: none"> • reversion occupiers, <i>SRB agreement sellers</i> or home purchasers; or • reversion or home purchase providers or <i>SRB agreement providers</i> 	...decline from entering into or varying the terms of a plan or agreement	No
...potential or existing: <ul style="list-style-type: none"> • reversion occupiers, <i>SRB agreement sellers</i> or home purchasers; or • reversion or home purchase providers or <i>SRB agreement providers</i> 	...dispose of rights, obligations or interests in land that they have under a plan or agreement	No

Q44. What are the restrictions that apply if I am making a financial promotion about home finance plans or activities?

The *financial promotion* will need either to be communicated or approved by an *authorised person* or to be exempt under the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (the *Financial Promotion Order*).

If you are an authorised person who is communicating or approving the financial promotion and it is not exempt, you will need to comply with the provisions of the Mortgages and Home Finance: Conduct of Business Sourcebook ■ MCOB 3A for financial promotions of qualifying credit, a *home reversion plan*, a *home purchase plan* or a *regulated sale and rent back agreement*).

Q45. What exemptions may be likely to be available to me when I communicate financial promotions about home finance plans or activities?

A number of exemptions may be available. Those most likely to apply are summarised below.

- (1) Introductions (article 15 of the *Financial Promotion Order*). This applies, broadly speaking, where you introduce clients to an *authorised person* or an *exempt person* in the circumstances covered by the exclusion in article 29 of the *Regulated Activities Order* (see Q17). But this is provided the person to whom you make the introduction is not your close relative or a member of your *group*. In addition, there is an exemption for promotions concerning introductions relating specifically to home finance plans - see (5).
- (2) Exempt persons (article 16 of the *Financial Promotion Order*). This applies, subject to certain conditions, if you are an exempt person such as a registered social landlord or an *appointed representative*.
- (3) Generic promotions (article 17 of the *Financial Promotion Order*). This applies to a general promotion that does not identify any particular persons as being either providers of, or as offering arranging or advisory services relating to, home finance plans.
- (4) One-off promotions (articles 28 and 28A of the *Financial Promotion Order*). These apply to promotions that are intended for a particular recipient (or group of connected recipients).
- (5) Introductions relating to home finance plans (article 28B of the *Financial Promotion Order*). This applies to real time financial promotions relating to home finance plans for the purpose of making introductions. This exemption is subject to the same conditions as apply to the exclusion in article 33A of the *Regulated Activities Order* (see Q18 and Q34); and
- (6) Advice centres (article 73 of the *Financial Promotion Order*). This applies to bodies such as citizens' advice bureaux when they make promotions about home finance plans in the course of their business of providing free advice about debt matters.

Further guidance on these and other exemptions from the financial promotion restriction is in Chapter 8 of PERG (■ PERG 8).