

FINANCIAL PROMOTIONS (AMENDMENT) INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 145 (Financial promotion rules);
 - (3) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 6 August 2010.

Amendments to the Handbook

- D. The Conduct of Business sourcebook (COBS) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Financial Promotions (Amendment) Instrument 2010.

By order of the Board
22 July 2010

Annex

Amendments to the Conduct of Business sourcebook (COBS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 4.1.2 G (1) This chapter applies in relation to an *authorised professional firm* in accordance with *COBS 18* (Specialist regimes).
- (2) This chapter applies, to a limited extent, in relation to communicating or approving a financial promotion that relates to a deposit if the deposit is a structured deposit, cash deposit ISA or cash deposit CTF.
- ...
- 4.3.1 R (1) ...
- (2) ~~In the case of~~ If a financial promotion that relates to ~~the~~ a firm's *MiFID or equivalent third country business*, this rule does not apply to the extent that ~~a~~ the financial promotion is a *third party prospectus*.
- (3) ~~In the case of~~ If a financial promotion that does not relate relates to ~~the~~ a firm's business that is not *MiFID or equivalent third country business*, this rule applies to *communicating or approving a* the financial promotion but does not apply:
- ...
- ...
- 4.5.1 R (1) ...
- (2) ~~This section does not apply in relation to~~ If a communication that is made by relates to a firm in relation to its *firm's MiFID or equivalent third country business*, this section does not apply:
- (a) to the extent that it is a *third party prospectus*; ~~or~~
- (b) if it is *image advertising*.
- (3) ~~This section does not apply in relation to~~ If a communication that is not made by relates to a firm firm's business that is not in relation to its *MiFID or equivalent third country business*, this section does not apply:
- ...
- ...

- 4.6.1 R (1) ...
- (2) ~~This section does not apply in relation to~~ If a communication by relates to a firm in relation to its firm's MiFID or equivalent third country business, this section does not apply:
- (a) to the extent that the communication is a *third party prospectus*; ~~or~~
- (b) if it is *image advertising*.
- (3) ~~This section does not apply in relation to~~ If a communication by relates to a firm's business that is not other than in relation to its MiFID or equivalent third country business, this section does not apply:
- ...
- ...
- 4.7.1 R ...
- (3) ~~This rule does not apply in relation to~~ If a communication made by relates to a firm in relation to firm's MiFID or equivalent third country business, this section does not apply:
- ...
- (4) ~~This section does not apply in relation to~~ If a communication that is not made by relates to a firm's business that is not in relation to MiFID or equivalent third country business, this section does not apply:
- ...
- ...
- 4.8.1 R This section applies to a *firm* in relation to the communication of a financial promotion that is not in writing, but it does not apply:
- ...
- ...
- 4.8.3 R A *firm* must not ~~initiate a non-written financial promotion communicated to a particular person~~ communicate a solicited or unsolicited financial promotion that is not in writing, to a client outside the *firm's* premises, unless the *person communicating* it:
- ...
- ...

4.9.1 R (1) Subject to (2) and (3), this section applies to a firm in relation to the communication or approval of a financial ~~promotions~~ promotion that ~~relate~~ relates to the business of an *overseas person*.

(2) ...

(3) ~~This section does not apply to~~ If a communication ~~by~~ relates to a firm's business that is not other than in relation to its MiFID or equivalent third country business, this section does not apply:

...

...

4.9.3 R A *firm* must not *communicate* or *approve* a *financial promotion* which relates to a particular *relevant investment* or *relevant business* of an *overseas person*, unless:

(1) ...

(2) the *firm* has ~~no reason to doubt~~ taken reasonable steps to satisfy itself that the *overseas person* will deal with *retail clients* in the *United Kingdom* in an honest and reliable way.

...

4.11.1 R ...

(4) ~~This rule does not apply in relation to~~ If a communication that is made by ~~relates to~~ a firm in relation to its firm's MiFID or equivalent third country business, this section does not apply:

...

(5) ~~This rule does not apply in relation to~~ If a communication ~~made by~~ relates to a firm's business that is not other than in relation to MiFID or equivalent third country business, this section does not apply:

...