

**CONDUCT OF BUSINESS SOURCEBOOK (COMMUNICATIONS IN RELATION TO AUTHORISED FUND BENCHMARKS) (AMENDMENT) INSTRUMENT 2021**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions in or under:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
    - (a) section 137A (The FCA’s general rules);
    - (b) section 137R (Financial promotion rules);
    - (c) section 137T (General supplementary powers);
    - (d) section 139A (Power of the FCA to give guidance);
    - (e) section 247 (Trust scheme rules);
    - (f) section 248 (Scheme particulars rules);
    - (g) section 261I (Contractual scheme rules); and
    - (h) section 261J (Contractual scheme particulars rules);
  - (2) regulation 6(1) of the Open-Ended Investment Companies Regulations 2001 (SI 2001/1228); and
  - (3) the other powers listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on 1 December 2021.

**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 Conduct of Business Sourcebook (Communications in relation to Authorised Fund Benchmarks) (Amendment) Instrument 2021.

By order of the Board  
25 November 2021

## Annex

## Amendments to the Conduct of Business sourcebook (COBS)

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

**4 Communicating with clients, including financial promotions**

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**4.5 Communicating with retail clients (non-MiFID provisions)**

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Authorised fund managers' communications in relation to benchmarks

- 4.5.11A R The rules in COBS 4.5.12R to COBS 4.5.15R apply to:
- (1) a financial promotion relating to an authorised fund;
  - (2) a communication which contains a statement referring to or concerning the past performance of an authorised fund; and
  - (3) any other communication about an authorised fund that refers in any way to the aims of the fund or describes the benefits or risks of investing in it.
- 4.5.11B G As a result of COBS 4.5.11AR, COBS 4.5.12R to COBS 4.5.15R would not normally be expected to apply to administrative communications if those communications do not refer in any way to the aims of an authorised fund or describe the benefits or risks of investing in it. Examples of such communications might include contract notes that simply set out details of the unitholder's purchase or redemption of units, statements of income distributions or accumulations, and confirmations of a change of unitholder registration details.
- 4.5.12 R Subject to COBS 4.5.13R, an authorised fund manager must include in any communication about an authorised fund to which this ~~section~~ rule applies:
- (1) ...
  - ...
- 4.5.13 R Where an authorised fund manager includes, in any communication about an authorised fund to which this ~~section~~ rule applies, an indication of past performance for any authorised fund it manages, it must (in addition to complying with COBS 4.6.2R where applicable):
- (1) ...

...

...