

**Finalised Guidance  
FG24/1**

Finalised guidance on financial  
promotions on social media

**March 2024**

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## Chapter 1

# Introduction

- 1.1** This Guidance clarifies our expectations of firms and others, such as influencers, communicating financial promotions on social media. Our financial promotion rules are technology neutral and apply across all channels used to advertise, including social media.
- 1.2** Under the Consumer Duty (the Duty), financial promotions must support retail customer understanding and communicate information to retail customers in a way that equips them to make effective decisions. We want firms to consider this Guidance alongside their obligations under the Duty to deliver good outcomes for retail customers.
- 1.3** We expect financial promotions to be standalone compliant. This means that each communication must comply with our rules when considered individually.
- 1.4** We expect promotions to provide a balanced view of the benefits and risks, and clearly communicate information that will help consumers make effective, well-informed decisions. Firms should consider factors such as their target audience, what recipients need to know, the kind of decision to be made by recipients, and where confusion could arise in determining how to support consumer understanding.
- 1.5** Some promotions will require specific information, such as a risk warning with prescribed wording, to be displayed prominently. Firms should also be aware of any additional requirements for how this required information is to be displayed. For example, in promotions for high-risk investments (HRIs), we expect the prescribed risk warning to be displayed throughout the promotion and not to be obscured or truncated by a design feature of the social media platform.
- 1.6** Firms working with affiliate marketers, such as influencers, should take proactive responsibility for how their affiliates communicate financial promotions. This includes having appropriate monitoring and oversight systems to ensure that affiliates understand their responsibilities and do not communicate illegal or non-compliant financial promotions. Firms remain responsible for the compliance of every promotion they make or cause to be made.
- 1.7** Unauthorised persons, such as influencers, who promote financial products or services that are subject to regulation without the approval of an FCA authorised person may be committing a criminal offence.
- 1.8** Even when an influencer does not have a commercial relationship with a firm, their communications on social media about financial products or services may still be subject to the financial promotion restriction and require approval to communicate.

- 1.9** Influencers should consider whether they are the right person to promote a product or service. They should also consider what other rules and standards apply to their activities. This includes the Advertising Standard Authority's (ASA) expectation that they must label their content as an advertisement upfront (including affiliate links) if they get any form of payment.

## Background

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- 1.10** Social media is an increasingly important part of firms' marketing strategies, allowing them to reach a large audience with greater speed and frequency. However, poor quality financial promotions on social media can lead to significant consumer harm due to their wide reach and the complex nature of many financial products and services.
- 1.11** In 2023, we consulted on updated guidance for financial promotions on social media. We want to clarify our expectations of firms and address consumer harm that we've seen arising from new and emerging features of social media. Having considered the feedback, we are replacing our previous Guidance (FG15/4: Social media and customer communications) with this Guidance. The Feedback Statement in the Annex summarises the feedback, along with our responses.
- 1.12** The Guidance below does not create new obligations for firms. Rather, it indicates how firms might approach complying with their existing regulatory obligations. The Guidance is also not exhaustive and is not a complete description of the steps which firms should take when communicating financial promotions or approving them for communication on social media. It is up to firms to decide how to ensure that a financial promotion complies with our rules.

## Who this Guidance affects

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- 1.13** This Guidance will be relevant to:
- Authorised persons involved in communicating or approving financial promotions on social media.
  - Unauthorised persons, including influencers or other affiliate marketers, involved in communicating financial promotions on social media.
  - Trade bodies that represent the above groups.

## How this links to our objectives

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- 1.14** The Guidance advances our objectives of securing an appropriate degree of protection for consumers and ensuring that markets function well. By updating our expectations, we aim to promote better compliance by market participants who promote financial products and services. Consumers in turn should be better informed and aware of the risks involved in purchasing financial products and services, helping them to make better decisions that are aligned with their needs and risk profile. Informed consumers are less

likely to experience unexpected loss and loss of trust in financial services. This supports sustainable economic growth in line with our secondary international competitiveness and growth objective.

- 1.15** This Guidance supports the FCA Strategy commitment of enabling consumers to help themselves, and our goal of reducing the number of consumers investing in HRIs who have a low-risk tolerance or one or more characteristics of vulnerability by 2025. Consumers need good information to make good investment decisions. But this doesn't always happen. Instead, they're often targeted with adverts that are illegal, unclear, unfair or misleading. An increasing number of consumers are turning to social media for investment information. It is crucial that they are given information that equips them to make effective, timely and properly informed decisions. This will enable them to make decisions in line with their risk appetite.
- 1.16** We have set out our vision for how the core features of the Consumer Investments market need to work for the sector to collectively function well. This Guidance supports our aim of ensuring consumers have access to information that is proportionate to the complexity of the investment and decision involved, helping them make good decisions. It also reflects our ambition for regulation that supports consumers to accept responsibility for their investment decisions, through being supported to understand the features and risks of the products and services being offered to them.

## Equality and diversity considerations

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- 1.17** We are required under the Equality Act 2010 to have due regard to the need to eliminate discrimination, harassment, victimisation, and any other conduct prohibited by or under the Act, advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, and to foster good relations between people who share a protected characteristic and those who do not.
- 1.18** This Guidance will not disadvantage or inadvertently discriminate against persons with protected characteristics under the Equality Act of 2010. It seeks to protect all consumers from harm. To the extent that people with protected characteristics are particularly at risk of being targeted by illegal or non-compliant financial promotions, updating our guidance on financial promotions on social media may benefit people with protected characteristics.

## Costs and benefits of our proposals

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- 1.19** As we are not making new rules, our statutory obligation under FSMA to publish a cost-benefit analysis (CBA) does not apply. This Guidance seeks to clarify the application of our existing rules and policies and provide guidance on the financial promotion perimeter.

- 1.20** Our approach to CBAs states that we produce a CBA for guidance about rules ‘if a high-level assessment of the impact of the proposal identifies an element of novelty which may be in effect prescriptive or prohibitive such that significant costs may be incurred’. This Guidance is not prescriptive and clarifies existing expectations that follow from the relevant rules. So, we do not provide a CBA for this Guidance.

## The regulatory regime

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- 1.21** This Guidance has been written based on the regulatory regime in place at the time of publication. It reflects the landscape at the time of writing and should be taken in this spirit rather than as exhaustive. Firms should consider this Guidance alongside the relevant rules and legislation, and other policies such as those from the ASA.
- 1.22** As this is guidance, it does not fall under our Rule Review Framework and is not subject to the framework’s monitoring requirements.

## Chapter 2

# Financial promotions on social media

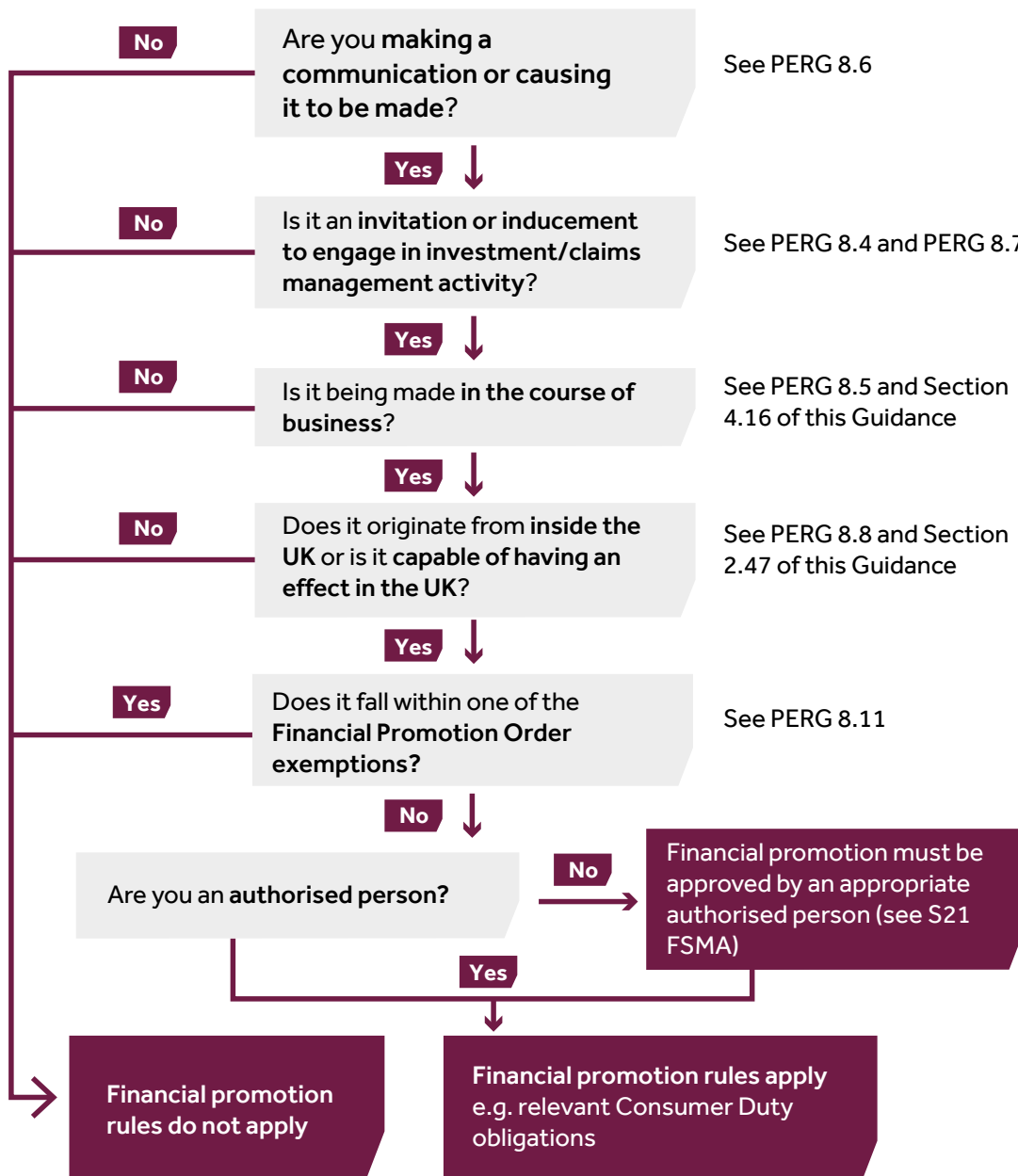
## What is a financial promotion?

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- 2.1** Under section 21 (s21) of the Financial Services and Markets Act 2000 (FSMA), a person must not, in the course of business, communicate an invitation or inducement to engage in investment activity. This is known as the financial promotion restriction. The financial promotion restriction does not apply if:
- the promotion is communicated by an authorised person
  - the content of the promotion is approved by an appropriate authorised person or
  - an exemption in the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (FPO) applies
- 2.2** In this context 'engage in investment activity' is not limited to investment services and covers a wide range of financial services and products. In addition, a person whose business activity does not require authorisation may still find their communications are captured by the financial promotion restriction. [Chapter 8.7 of the Perimeter Guidance Manual \(PERG\)](#) provides more detail on this. This Guidance will refer only to engaging in investment activity, but its principles also apply to invitations or inducements to engage in claims management activity, which are also captured by the financial promotion restriction.
- 2.3** For the purposes of the financial promotion restriction, 'communicate' includes causing a communication to be made.
- 2.4** The financial promotion restriction has a broad territorial application. It applies even where a communication originates outside the UK if it is capable of having an effect in the UK. A breach of s21 is a criminal offence which is punishable by **up to 2 years imprisonment, the imposition of an unlimited fine, or both**.
- 2.5** To assist understanding of when the financial promotion restriction applies, Figure 1 below provides a visual explanation of the tests involved in determining when a promotion is subject to the restriction.
- 2.6** An illegal financial promotion is one communicated in breach of s21. For example, an (unauthorised) influencer communicating a financial promotion without approval from an appropriate authorised person and where no FPO exemption applies. We provide extensive guidance on the scope of the financial promotion regime in [PERG 8](#).
- 2.7** A non-compliant financial promotion is one that has been lawfully communicated under s21 of FSMA but breaches our financial promotion rules. For example, an authorised person communicating a financial promotion which has an obscured risk warning that breaches our rules on prominence. We have a wide range of powers to protect consumers against non-compliant promotions, including issuing fines against firms and individuals who breach our rules.

- 2.8 Any form of communication (including through social media) is capable of being a financial promotion if it includes an invitation or inducement to engage in investment activity. This can include communications through 'private' or invitation only social media channels, like chatrooms such as Discord and Telegram.
- 2.9 A communication must be made 'in the course of business' (the business test) to be a financial promotion. We consider that the business test requires a commercial interest on the part of the communicator. It is intended to exclude genuine non-business communications such as friends talking in the pub. [PERG 8.5](#) gives more detail.
- 2.10 The business test can capture communications even where the communicator is not making the communication in the context of a direct commercial arrangement. We give more guidance on applying the business test in Chapter 4 of this Guidance.

**Figure 1: Do our financial promotions rules apply?**





## Our financial promotion rules

- 2.11** Authorised persons must comply with our rules when communicating or approving financial promotions. The detail of these rules differs between sectors, as outlined in paragraph 2.15. However, financial promotions are generally subject to the requirement to support consumer understanding and to be fair, clear and not misleading. Promotions that fail to meet this standard can cause consumers to buy products and engage in services that are not suitable for their needs, leading to poor outcomes for them.
- 2.12** The Consumer Duty builds on and goes further than the core requirement for communications to be fair, clear and not misleading. Principle 12 and PRIN 2A, including the cross-cutting rules, apply to a firm communicating or approving financial promotions which are likely to be received by retail customers. Where the Duty applies, firms must consider how their communications deliver good outcomes for retail customers and support understanding. Firms should review and consider how our [non-Handbook guidance on the Consumer Duty \(FG22/5\)](#) applies to their social media promotions. We also give additional guidance in Chapter 3.
- 2.13** Communications through social media can reach a wide audience very rapidly. When designing financial promotions, firms should carefully consider the way material on social media is distributed. For example, firms should ensure that their original communication would still support consumer understanding, even if it ends up in front of a non-intended recipient through third party sharing.
- 2.14** Image advertising, only consisting of the name of the firm, a logo or other images associated with the firm, a contact point and a reference to the types of products or services provided by the firm or to its fees or commissions, are likely to be exempt from many of our financial promotion rules (and may not even amount to a financial promotion at all). However, the image advertising exemption from our rules does not extend to all sector-specific sourcebooks. Firms should familiarise themselves with the relevant rules for their business.
- 2.15** Different sectors have specific financial promotion rules. Firms communicating or approving financial promotions should be aware of the rules in the sourcebooks that are relevant to their business:
- [The Consumer Duty PRIN 2A & PRIN 3](#)
  - [Conduct of Business sourcebook COBS 4 & COBS 22](#)
  - [Banking: Conduct of Business sourcebook BCOBS 2](#)
  - [Claims Management: Conduct of Business sourcebook CMCOB 2 & CMCOB 3](#)
  - [Consumer Credit sourcebook CONC 3](#)
  - [Funeral Plan: Conduct of Business sourcebook FPCOB 4](#)
  - [Insurance: Conduct of Business sourcebook ICOBS 2](#)
  - [Mortgages and Home Finance: Conduct of Business sourcebook MCOB 3A](#)
  - [Environmental, Social and Governance sourcebook ESG 4](#)
  - [General Provisions sourcebook GEN 4 & GEN 5](#)

- 2.16** Authorised persons communicating or approving financial promotions about qualifying cryptoassets and cryptoasset firms registered with the FCA under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs) should familiarise themselves with how they can communicate cryptoasset promotions under the regime, as summarised in the published final rules ([PS23/6](#)).
- 2.17** We've also published guidance ([FG23/3](#)) which has information on, and sets out our expectations of, the communication and approval of financial promotions for qualifying cryptoassets. In particular, it sets out how the requirement for promotions to be fair, clear and not misleading applies to cryptoasset promotions. Those who communicate cryptoasset-related promotions should make sure they meet the expectations set out in both [PS23/6](#) and [FG23/3](#) when communicating such financial promotions on social media.
- 2.18** Firms approving financial promotions should familiarise themselves with our [guidance on approving financial promotions](#). Firms also need to consider whether they require FCA permission to approve financial promotions for unauthorised persons. Guidance on the need for permission to approve financial promotions can be found in [PERG 8.9](#) and on the process for applying for permission in [SUP 6A](#).
- 2.19** Some sourcebooks set expectations for firms to take account of the latest version of the [Web Content Accessibility Guidelines \(WCAG\)](#) accessibility standard when designing digital financial promotions, in particular in considering how any required risk warnings will be displayed. All firms should consider the principles of the WCAG or an alternative, equivalent standard when designing their online promotions.

## Standalone compliance

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- 2.20** We expect financial promotions to be standalone compliant. This means that each communication must comply with our rules when considered individually.
- 2.21** Promotions of complex financial products might require additional supporting information or disclosure to support consumer understanding. In this case, firms may include supporting hyperlinks or separate pathways for a consumer to access supporting information. Links to supporting information should be clearly brought to the consumer's attention and should give consumers enough information to make an informed decision. However, the initial promotion needs to remain compliant in and of itself. We give additional guidance on enhancing the clarity of communications, including through layering, in [FG22/5](#).
- 2.22** When assessing the compliance of a promotion that is viewed via a dynamic medium (such as Instagram stories), we consider the promotion as a whole and take a proportionate view based on the number of frames and where important information, including about risk, is displayed within the promotion. Firms should ensure that consumers will be presented with a balanced view of the benefits and risks of the promoted product or service.

**2.23** While all promotions must provide a balanced view of the product or service being promoted, the appropriate level of detail for a promotion that supports consumer understanding will depend on factors such as the target audience, what information recipients need to know, the kind of decision recipients will have to make, and any potential sources of confusion.

**Figure 2: A non-compliant promotion, lacking balance**



**Figure 3: A promotion that supports consumer understanding**



**Figure 2** shows a non-compliant promotion. It does not provide a balanced impression of the investment's potential prospects and does not mention relevant risks when promoting potential benefits, so could be misleading to consumers. It also does not comply with the rules in COBS 4 for providing information on future performance.

**Figure 3** shows a promotion that supports consumer understanding by providing a balanced view of the benefits and risks. It also uses clear language that consumers are likely to understand.

## Prominence

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- 2.24** There are various requirements across our sourcebooks for specific information that should be included in promotions in a 'prominent' way, and these rules are generally media-neutral, so apply to social media as they would any other channel. Firms should familiarise themselves with the relevant rules for the products and services they offer.
- 2.25** When assessing how to ensure that information is prominent in promotions communicated on social media, firms should consider our existing [guidance on prominence in financial promotions](#), which includes examples of good and bad practice. Information that is required to be prominent should be presented in a way that is easily identified and understood by consumers, equipping them to make effective, timely and properly informed decisions. Whether information is communicated prominently may depend on its size, position, or emphasis within a promotion. Social media promotions may, for example, make use of headings and layout, display and font attributes of text, and design devices such as graphs, graphics, audio-visuals and interactive media, depending on what is most appropriate for the channel firms are using to communicate.
- 2.26** Firms should also consider the target audience of the promotion and their likely information needs. Excessive information may obscure the most significant information or confuse consumers, preventing them from making effective decisions. This is particularly the case for social media promotions, where consumers may be likely to spend less time considering a complex promotion in its entirety. Firms should consider consumer testing to assess understanding, as discussed in paragraph 3.3.
- 2.27** We've seen promotions that include all the benefits within video or image content, while risks are only included in the accompanying caption outside of the main body of the promotion. This approach does not give information about risks sufficient prominence. Firms should ensure risk information has sufficient prominence, reflecting the relevant Handbook rules.
- 2.28** We've also seen promotions where information required to be displayed prominently is obscured by a social media design feature that reduces visibility, such as truncated text. Truncated text occurs when part of the text in the promotion is obscured by an ellipsis (such as 'see more...'), which must be clicked on to access the rest of the text. For example, this feature appears on Facebook posts.
- 2.29** Firms should ensure that where possible, information that is required to be prominent is displayed without needing click-through or any other optional action to view it. If it is not possible to display all the information without some of the text being cut off by truncation, firms should ensure as much of the information as possible is shown. However, this will only be appropriate if the promotion is still, on a standalone basis, fair, clear and not misleading, and supports consumer understanding with an appropriate balance between the benefits and risks, despite truncating key information.
- 2.30** Firms may also consider including information in an accompanying image if they cannot display the full warning without cutting off some of the text. This will not be appropriate on platforms where consumers can select settings to turn off images or stop them from loading alongside the text containing the promotion.

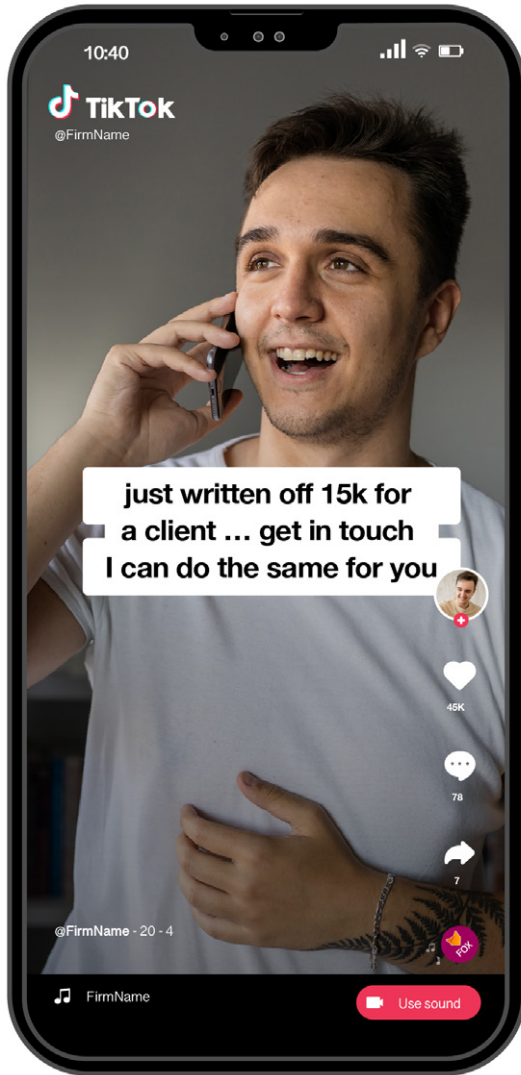
- 2.31** We remind firms of the requirement under the Duty to support consumer understanding and encourage them to consider whether a promotion is likely to meet this requirement if it can only be communicated on a social media platform by obscuring or partly truncating key information.

## Suitability of social media for financial promotions

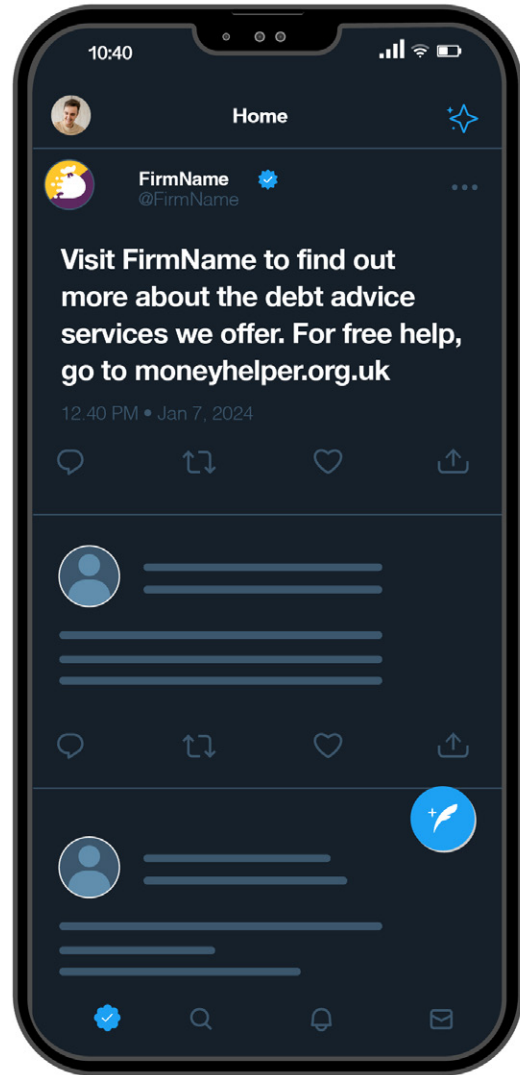
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- 2.32** The requirement to support consumer understanding and to be fair, clear and not misleading means there should be balance in how financial products and services are promoted, so that consumers are informed not only of the potential benefits but also of the relevant risks.
- 2.33** Social media will not always be an appropriate channel to communicate promotions. Some financial products and services have complex features and risks that can be hard for consumers to understand. All firms should consider how suitable social media is for the promotion of their product or service. For example, firms should consider how appropriate it is to use character-limited media, or a platform with some other restriction on the information that can be communicated, to promote complex features of financial products or services. This will involve considering factors such as the likely audience on social media and the complexity of a product or service. Firms may want to use social media to signpost potential customers towards other channels where more comprehensive information can be provided, as long as the promotion remains standalone compliant. Alternatively, it may be more appropriate to use 'image advertising' to promote a firm more generally (that is, without the promotion referencing specific products or services).
- 2.34** CONC 3.9.2G provides guidance that due to the complexity of debt counselling it is unlikely that media which provide restricted space for messages would be suitable for communicating financial promotions about debt solutions.
- 2.35** Given this guidance, firms should consider whether social media is appropriate for promotions by debt counselling firms about debt solutions, and whether the promotion of debt solutions on social media is compatible with prioritising good outcomes for consumers. We've seen promotions on social media which set out detail about how a customer might resolve their debt problems by explaining options but lack balance and make little reference to the relevant disadvantages, risks or costs of a particular debt solution.

**Figure 4: A non-compliant debt counselling promotion**



**Figure 5: A debt counselling promotion that signposts consumers to a more appropriate channel for more information**



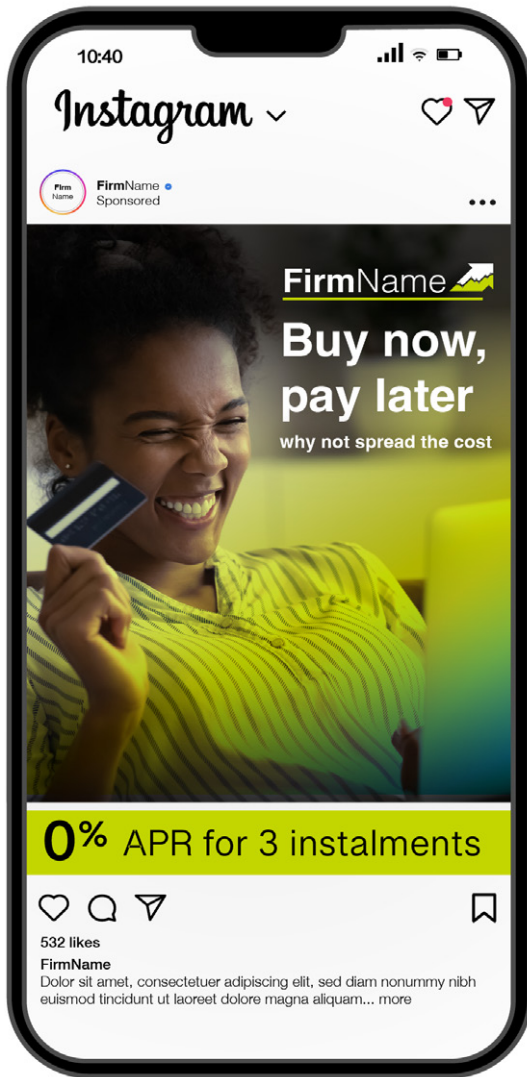
**Figure 4** provides an example of a non-compliant promotion of debt counselling services. It does not contain the detailed information required by CONC 3.9.3R.

**Figure 5** shows a promotion signposting consumers to debt counselling services that complies with our rules on image advertising, as outlined in CONC 3.1.7R.

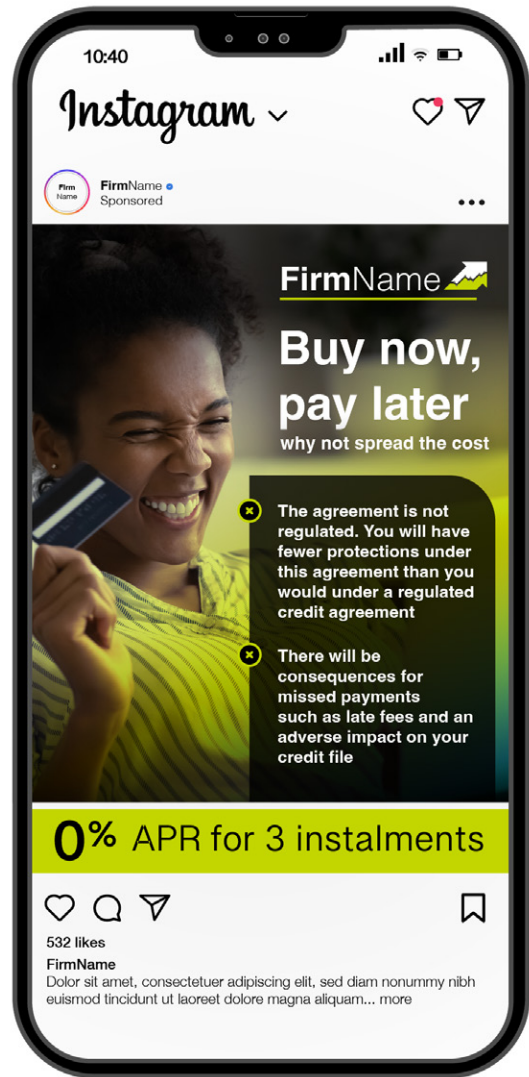
**2.36** We've also seen poor quality promotions of deferred payment credit, also known as exempt buy-now-pay-later (BNPL) products. Our Dear CEO letter expressed our concerns with the promotion of BNPL products. Firms promoting BNPL products should make sure promotions include the relevant risks for these products.

For example, that these are unregulated credit agreements where consumers may not have the same level of protection as dealing with authorised persons, the risks of taking on debt that consumers cannot afford to repay, the consequences of missed payments, and information about when charges become payable.

**Figure 6: A non-compliant promotion for unregulated credit**



**Figure 7: A compliant promotion for unregulated credit**

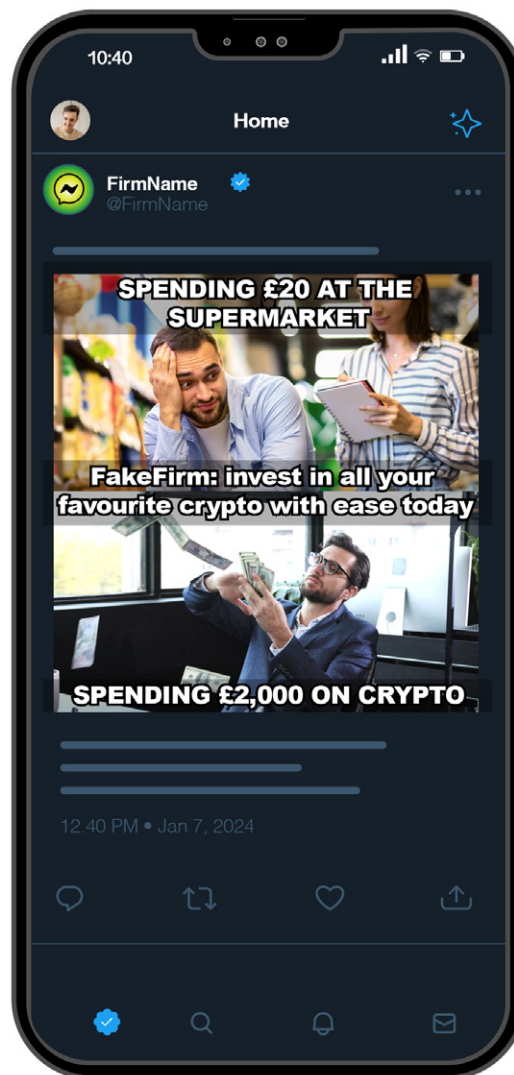


**Figure 6** shows a non-compliant promotion of BNPL. It promotes the benefits of the service but does not provide any information on the potential risks, therefore would not be considered fair, clear and not misleading.

**Figure 7** shows a compliant promotion. It provides clearly visible balancing information on relevant risks of the service and uses language that can be easily understood by consumers.

**2.37** Any type of communication is capable of being a financial promotion and subject to the financial promotion restriction. We've seen memes and other similar communications circulated on social media with users often not realising they may be subject to our rules. The use of memes in promotions is particularly prevalent in the cryptoasset sector.

**Figure 8: A meme that constitutes a non-compliant cryptoasset promotion**



**Figure 8** shows a cryptoasset meme that would be subject to the financial promotion regime, and that is not compliant with the rules in COBS 4.12A.



## High-risk investments (HRIs)

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- 2.38** HRIs are subject to specific promotion restrictions. These restrictions vary depending on the investment and are set out in [COBS 4.12A](#), [COBS 4.12B](#) and [COBS 22](#). Firms using social media to promote investment products should familiarise themselves with the relevant marketing restrictions for the products they're promoting.
- 2.39** In particular, certain investments are banned from being mass marketed to retail investors, such as non-mainstream pooled investments and speculative illiquid securities (eg speculative 'mini bonds'). Unless a firm can ensure that promotions of products subject to these restrictions will not be viewed or received by retail investors, firms should not be promoting these investments on social media.
- 2.40** Some high-risk investments including crowdfunding, cryptoassets and contracts for differences (CFDs) can be mass marketed to retail investors but are subject to certain restrictions. Firms must ensure that promotions for these investments comply with the relevant restrictions, such as the requirements around risk warnings and the bans on incentives to invest.

## Prescribed risk warnings

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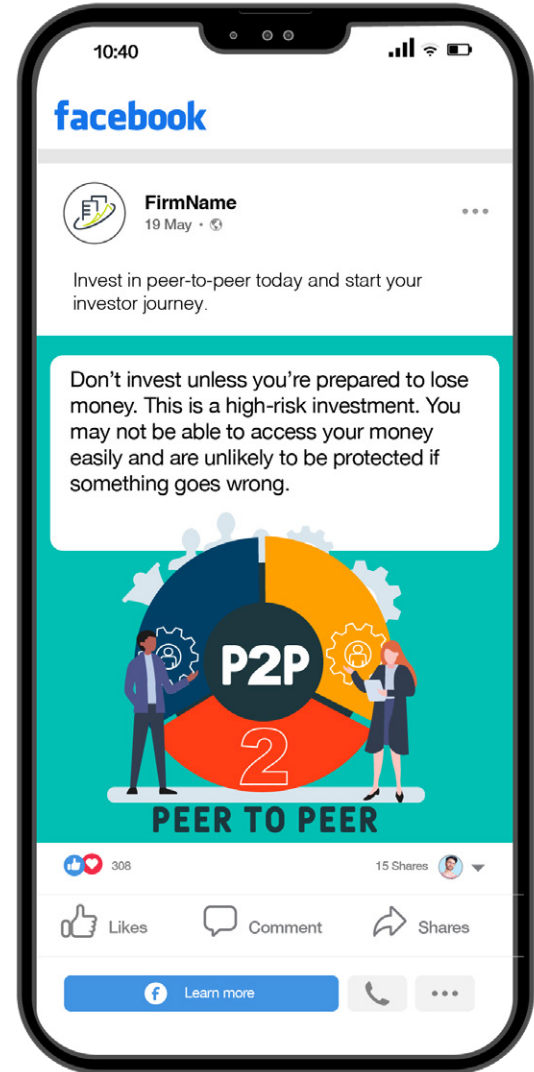
- 2.41** The guidance in this section relates specifically to prescribed risk warnings, where certain wording is required by regulation to be displayed in promotions for certain financial products and services, such as HRIs and high-cost short-term credit (HCSTC). The principles and good practices described in this section should also be considered when deciding how to ensure other kinds of important information are communicated prominently in financial promotions.
- 2.42** Our behavioural research ([OP26](#)) shows that risk warnings are more effective when viewed at the time of, or just before, the communication of the promotion, as well as when they are prominent and stand out from their surroundings. For this reason, it may limit consumer understanding to display a prescribed risk warning which is less prominent than other key elements of the promotion or which is presented at a later stage than the promotion itself.
- 2.43** Prescribed risk warnings should be clear to consumers on the face of the promotion. For some products and services there may be additional rules about how the prescribed risk warning should be displayed. For example, in promotions for restricted mass market investments (RMMIs), we expect the complete risk warning should be displayed for the duration of the financial promotion in line with [COBS 4.12A.36R](#). When a risk warning is required to be displayed throughout a promotion, firms should ensure that the entire risk warning is clear and does not require click-through to access. Firms should take particular care on platforms that use truncated text that the relevant prescribed risk warning is not truncated.

**2.44** Where our rules explicitly allow shortened risk warnings, firms should ensure the entire shortened clause is clearly visible and the full warning is included after click-through.

**Figure 9: A non-compliant peer-to-peer (P2P) promotion**



**Figure 10: A compliant P2P promotion**



**Figure 9** shows a non-compliant P2P promotion. The prescribed risk warning for P2P promotions is truncated and would require a consumer to click on the 'see more' button for the warning text to be visible, breaching the requirements of COBS 4.12A.

**Figure 10** shows a compliant promotion in which the risk warning is prominent and will be easily seen by consumers.

**2.45** As we explain in paragraph 2.27, another example of poor practice that we've seen is promotions which contain all the benefits within their noticeable video or image content, while the relevant risk warnings are in the caption below. Promotions like this lack balance and are likely to be unfair and potentially misleading. Firms should ensure prescribed risk warnings have sufficient prominence, reflecting the relevant Handbook rules.

**Figure 11: A non-compliant promotion for high-cost short-term credit (HCSTC)**



**Figure 12: A compliant promotion for HCSTC**



**Figure 11** shows a non-compliant HCSTC promotion. The prescribed HCSTC risk warning (see CONC 3.4) is difficult to see in the caption and is also obscured by the caption's truncation feature. There is also no other information provided on relevant risks of the service. It is in breach of CONC 3.3.1.

**Figure 12** shows a compliant promotion. The risk warning is clear and prominent within the content of the video, and the representative APR is prominently displayed, supporting consumer understanding of the service.

**2.46** To make our expectations clear to firms on the prominence of prescribed risk warnings, below are some examples of what we would consider to be a prominent risk warning across various social media channels. Firms may find it helpful to familiarise themselves with more detailed [case studies](#) of our expectations when communicating financial promotions on social media.

**Table 1: Application of prescribed risk warning prominence standards to social media channels**

	<b>Features of a prominent risk warning</b>	<b>Does not comply with our expectations</b>
<b>Stories and carousel posts (eg Instagram posts with multiple pictures)</b>	The risk warning is clear and prominent, on every slide containing the financial promotion. Consumers should see the risk warning as soon as they view the financial promotion.	The risk warning is significantly smaller than the other written content and is found in the last slide of the financial promotion.
<b>Livestreams (including gaming streams such as Twitch)</b>	The risk warning is displayed clearly and prominently on the screen for the duration of any part of the stream involving the communication of the financial promotion.	The streamer makes no mention of the risk warning while communicating the financial promotion.
<b>Character-limited media</b>	The entire risk warning is displayed clearly within the text. Where necessary, prescribed shortened risk warnings have been used.	The risk warning has been truncated in such a way that it ceases to comply with applicable rules.
<b>Short-form video content (eg TikTok)</b>	The risk warning is clearly and prominently displayed across the screen throughout the financial promotion.	The risk warning is found within the caption of the video, or the benefits are given disproportionate prominence (eg through use of flashing text or the dialogue in the video).
<b>Long-form video content (eg YouTube)</b>	The risk warning is displayed clearly and prominently on the screen for the section of the video involving the communication of the financial promotion.	The risk warning is displayed at the end of the video rather than when the financial promotion is being communicated.

## Compliance with the regime for unregulated non-UK based entities

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- 2.47** The territorial scope of the financial promotion regime is deliberately broad. It extends to communications which are capable of having an effect in the UK, even where the communicator is based overseas. Financial promotions do not need to be expressly targeted towards UK consumers to be capable of having an effect in the UK and subject to the financial promotion regime. For example, if UK consumers can view the promotion and potentially engage in the investment activity that is being promoted, the communication is likely to be capable of having an effect in the UK. [PERG 8.8.1G](#) explains that 'it is irrelevant whether the communication has an effect provided it is capable of doing so'.
- 2.48** We recognise that navigating the broad territorial reach of the financial promotion regime can be challenging for non-UK based persons promoting financial products and services on social media. However, unauthorised persons communicating financial promotions which are capable of having an effect in the UK need to comply with the financial promotion restriction in the same way as any other unauthorised persons. This means ensuring that the content of their financial promotions is approved by an appropriate authorised person or that their promotions are exempt under the FPO.
- 2.49** The FPO contains exemptions from the financial promotion restriction which are particularly relevant to overseas communicators. Article 12 of the FPO provides an exemption for communications which are made only to, or directed only at, persons outside the UK. [PERG 8.12](#) gives detailed guidance on this exemption. The exemption specifies various conditions which are to be considered in determining whether a promotion is directed only at persons outside the UK.
- 2.50** In light of the above, the sorts of steps that non-UK entities might take with a view to complying with the financial promotion regime could include (but are not limited to):
- having an authorised person approve their financial promotions
  - geo-blocking their promotions so that they are not accessible to UK consumers
  - changing the form and content of their communications which are capable of having an effect in the UK so that they do not contain invitations or inducements to engage in investment activity
  - implementing proper systems and controls to prevent UK consumers from engaging in the investment activity to which the communication relates, supported by appropriate indications to the effect that the relevant promotion is directed only at persons outside the UK and should not be acted on by UK consumers
- 2.51** The steps unauthorised persons might take to comply with the regime will depend on the nature of their communications. They will likely need to vary across social media platforms and may change with time. For example, social media platforms differ in the extent to which they allow communications to be geo-blocked for certain jurisdictions. Further, in time, new technologies and changes to the systems on social media platforms may offer new ways of aiding compliance.

- 2.52** Where promotions of unauthorised overseas persons are not approved and it is not possible to restrict access to those promotions for persons in the UK, the communicator may consider using a range of measures to ensure compliance with the UK regime. While clear and prominent warnings to the effect that a promotion is not intended for UK consumers can be helpful, it is unlikely that this will be sufficient to comply if implemented in isolation. Such warnings should be used with other measures to restrict UK consumers' ability to engage with promotions which claim to be directed only at persons outside the UK. Otherwise, such statements risk having no real impact and the promotion is still, in substance, directed at persons in the UK.
- 2.53** Challenges arise where both authorised and non-authorised entities within a global group are communicating financial promotions which are capable of having an effect in the UK. This risk becomes particularly prominent where such group entities share social media channels and may together be communicating financial promotions through that shared channel. We've seen harm occur where UK consumers click a link in a financial promotion believing they are engaging with the promotion of a UK regulated person but are directed to communications (such as a website) of an unregulated overseas group entity. In these circumstances, the UK consumer may believe that they are still engaging with an FCA-regulated firm and may assume they benefit from a similar level of regulatory protection.
- 2.54** Where different group entities are involved in communicating financial promotions which are capable of having an effect in the UK, including through shared social media channels:
- they need to manage the risk that any communications of unauthorised group entities may breach the financial promotion restriction
  - we expect firms to have in place proper systems and controls to mitigate the risk that UK consumers are directed to the website of an unregulated overseas group entity which is not compliant with the financial promotion restriction or which may involve the unregulated overseas person carrying on regulated activity with or for the UK consumer, in breach of the general prohibition in section 19 (s19) FSMA
- 2.55** Where group entities share social media accounts, they might consider having the UK authorised group member approve the promotions communicated through the account.
- 2.56** Alternatively, firms could consider creating UK-specific social media accounts and having clear and prominent statements that direct UK consumers to those accounts. If firms choose to implement this method, we expect the UK-specific social media accounts to be active and not to be 'shell' accounts.
- 2.57** If unauthorised persons are providing financial services to UK consumers, they must also ensure that they are not carrying on regulated activities in breach of the general prohibition in s19 FSMA. This is a separate consideration to whether an unauthorised person is breaching the financial promotion restriction in s21 FSMA.

## Chapter 3

# Marketing strategies

## The Consumer Duty

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- 3.1** The Duty came into force on 31 July 2023 for products and services that are on sale to new customers or available for renewal to existing customers. It will apply to closed products from 31 July 2024. The standards under Principle 12 and PRIN 2A, including the cross-cutting rules, apply to communications and financial promotions on social media. This applies whether the firm has a direct relationship with the customer or not, including where a firm approves a financial promotion. The Duty sets higher standards than our basic expectations under Principle 7. Therefore, although all communications (including financial promotions) are required to be fair, clear and not misleading, compliance with these requirements by themselves will not be sufficient to ensure compliance with the Duty.
- 3.2** Firms advertising using social media must consider how their marketing strategies align with acting to deliver good outcomes for retail customers. Firms' communications should support and enable informed decision-making, equipping consumers with the right information in a timely way. This goes beyond ensuring that an individual promotion supports consumer understanding by providing balanced information about the benefits and risks in a way that is clear, fair and not misleading.
- 3.3** The Duty also requires firms to do things such as identify a target market and tailor their communications to account for the characteristics of their target market and the characteristics of the marketing channel used. This would include, for example, taking account of the features of different social media platforms. They should also ensure that their promotions are likely to be understood by the audience, utilising regular consumer testing where appropriate. [FG22/5](#) outlines examples of good and poor practice under the Duty that firms should refer to.
- 3.4** Confining promotions to a restricted target market on social media may be practically difficult. Where a promotion is designed only for a professional target market for example, it is not sufficient simply to include a disclaimer to the effect that the promotion is 'for professional investors only'. If firms are considering communicating promotions to a restricted audience on social media, they should carefully consider whether they're able to comply with applicable requirements, including the Duty. Firms should also carefully consider whether social media is appropriate for these communications if there's limited ability to control who sees the promotion, and if their distribution strategy might result in consumer harm.

- 3.5** We've seen consumers on social media be repeatedly bombarded by financial promotions from the same service or firm. Consumers with characteristics of vulnerability may be more susceptible on social media to the type of behavioural biases that excessive contact of an individual tries to exploit. We do not think this type of practice is acting in good faith, as required by the Duty (PRIN 2A.2.1). Firms should consider whether their marketing strategies are consistent with enabling good consumer decision making, as part of which we expect firms should not seek to exploit customers' behavioural biases. Firms should also ensure any use of advertising tools offered by social media platforms that allow them to target advertising is compliant with their obligations under the Duty, particularly the requirement to tailor communications to the characteristics of the target market.
- 3.6** Firms should regularly test, monitor, and adapt communications to support good consumer outcomes. This will be especially relevant as social media evolves and new features emerge that may impact consumer understanding. [FG22/5](#) provides examples of good and poor practice under the Consumer Duty related to monitoring and testing that communications are supporting consumer understanding.
- 3.7** We've published behavioural research that firms may find helpful when considering how to aid consumer understanding, including [OP23](#), [OP26](#) and [research notes on high-risk investments](#).
- 3.8** Firms should also reflect on the relevance of our sector-specific reviews to their social media promotion strategy. For example, consumer finance firms are reminded of the marketing expectations we outlined in our review of [relending by high-cost lenders](#).

## Recipients sharing or forwarding communications

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- 3.9** For third-party sharing, such as reposting a promotion, any breaches of our rules in the original communication are still the responsibility of the originating firm. Sharing or forwarding by a third party does not eliminate any original non-compliance.
- 3.10** There is a risk that sharing or forwarding itself creates non-compliance. For example, a communication that is intended for a professional investor is viewed by a retail customer. It is difficult to guard against communications being distributed beyond their target market on social media. So, firms should consider whether social media is an appropriate channel to promote products or services with a restricted target market.
- 3.11** If a firm shares a customer's social media post, whether that sharing amounts to the communication of a financial promotion will depend on the content and context of the social media post. This will be determined by whether it amounts to an invitation or inducement to engage in investment activity. The firm is responsible for compliance if it shares the post, even though the firm did not generate the original content of the communication. Firms may wish to review our existing guidance on communicating and its relevance to financial promotions in [PERG 8.6](#).



## Unsolicited promotions

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- 3.12** There are specific legal requirements when sending marketing through electronic media. Firms should be aware of the Privacy and Electronic Communications Regulations 2003 (PECR) and the Information Commissioner's Office [Direct Marketing guidance](#). The Government has also [consulted](#) on extending the current bans on 'cold calling' (unsolicited real-time promotions) for pensions and claims management firms to cover all consumer financial services and products.
- 3.13** Social media is often used for making unsolicited promotions. For such promotions and cold calling, we remind firms of our rules in [COBS 4.8](#) (cold calls and other promotions that are not in writing), [MCOB 3A.3.5](#) (prohibition on cold calls of qualifying credit, a home reversion plan or a regulated sale and rent back agreement), [CONC 3.10](#) (financial promotions not in writing), and [FPCOB 4.2](#) (funeral plans). A promotion by a tweet (for example) is not a real-time promotion within the meaning set out in the FPO. However, firms may wish to follow up promotions on social media with real-time promotions. In this context, being a 'follower' of a firm or 'liking' a firm's page or profile does not constitute 'an established existing client relationship' as required by the relevant Handbook provisions.
- 3.14** Whether a financial promotion is real or non-real time can have implications for the financial promotion rules that will apply. A financial promotion is likely to be non-real time if it is made or directed at more than one recipient in identical terms, creates a record which is available to the recipient at a later time, and is made by way of a system which in the normal course does not enable or require the recipient to respond immediately ([PERG 8.10](#)). This means promotions communicated by means of channels like live-streams or gaming streams are likely to be considered a non-real time promotion.

## Approval and record-keeping

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- 3.15** Firms must have an adequate system in place to sign off digital media communications, in line with the requirements of Senior Management Arrangements, Systems and Controls sourcebook (SYSC), [SYSC 3](#) and [SYSC 4](#). This sign-off should be by a person of appropriate competence and seniority within the organisation. Firms should also be aware of any sector specific requirements, for example those in [COBS 4.10](#).
- 3.16** Firms should also keep adequate records of any relevant communications, as outlined in [SYSC 9](#) and our sector specific sourcebooks. As well as helping to protect consumers, these records enable the firm to deal effectively with any subsequent claims or complaints. Firms should not rely on digital media channels to maintain records, as they will not have control over this. Social media platforms may refresh content from time to time, deleting older material.

- 3.17** The current sign-off and record-keeping provisions in our Handbook apply to digital (including specifically social) media in the same way as to print, broadcast and outdoor media. Beyond that, these issues are a question of risk management by the firm. Firms should consider the provisions in [SYSC](#). Risk management encompasses all relevant risks, including legal and reputational risk, as well as regulatory risk.

## Affiliate marketing

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- 3.18** Affiliate marketing is a common part of firms' marketing strategies. This is where a firm makes an agreement to pay commission to a person (who could be an unauthorised person) based on business generated from referrals. Firms should take proactive responsibility for how their affiliate marketers communicate financial promotions.
- 3.19** Where an affiliate marketer is communicating a financial promotion containing a firm's referral link without the firm having developed, created, or controlled the content of that communication, we may still consider that the firm is causing the communication to be made. The firm would be liable for the compliance of that financial promotion.
- 3.20** We've seen examples of firms lacking proper systems and controls to manage how their promotions are used on social media. Principle 3 requires firms to take reasonable care to organise and control their affairs responsibly and effectively, with adequate risk management systems. This Principle is supplemented by detailed requirements in SYSC for establishing and maintaining appropriate systems, controls, policies and procedures for ensuring compliance with a firm's regulatory requirements.
- 3.21** Firms that use affiliates, such as influencers, to communicate financial promotions on social media should take appropriate steps to ensure any such influencer understands the product or service they are promoting and is aware of relevant regulatory requirements. This includes taking appropriate steps to ensure that any influencers they use are not illegally communicating financial promotions. When considering if it is appropriate to engage a particular affiliate, firms should consider (among other things) whether that affiliate may alter their promotions, communicate unapproved promotions, or might carry on regulated activity in breach of the general prohibition in s19 FSMA.
- 3.22** Firms should consider how they can monitor the marketing actions of their affiliate partners to ensure good customer outcomes, and how many partnerships the firm can viably maintain before adequate monitoring is no longer possible. Firms should also be aware that specific ongoing monitoring requirements apply where a firm approves a financial promotion that is subject to the financial promotion rules in COBS 4 ([COBS 4.10.2R](#)). [FG22/5](#) provides guidance on our expectations when firms are working with unregulated entities in the distribution chain (particularly in paragraph 2.22). Table 2 below provides some examples of good and poor practices that we have seen in the systems and controls that firms have in place around their use of affiliates.
- 3.23** If an affiliate is not an authorised person, they will need to consider how they are complying with s21 in communicating financial promotions. They may also need to consider whether their activities are regulated for the purposes of the general prohibition in s19 FSMA. It is a criminal offence for a person to carry on regulated activity

in the UK unless they are authorised or exempt. An activity is regulated if it is of a type falling within the FSMA (Regulated Activities) Order 2001 (RAO) and is carried on by way of business. [PERG 2](#) contains detailed guidance on the regulated activity regime. For example, an affiliate marketer earning commissions by introducing prospective customers to an investment firm may need to consider whether that activity involves them carrying on regulated arranging activity by way of business. Whether or not a particular affiliate's activity is a regulated activity will depend on the nature of the affiliate's role. If they are carrying on regulated activity, they will need to consider how they do so legally.

- 3.24** In addition to this Guidance, firms and affiliate marketers should be aware of other standards and guidance that apply to their activities, such as the ASA's [guidance on online affiliate marketing](#).

**Table 2: Examples of good and poor practices for the monitoring and oversight of affiliate marketers, such as influencers**

Good monitoring and oversight practices	Poor monitoring and oversight practices
Having an affiliates policy, and one specific to the UK for firms with an international structure, and regularly updating the terms and conditions in light of new rules.	Leaving it to affiliates to ensure promotions are communicated legally and in compliance with our rules.
Monitoring promotions made by affiliates on an ongoing basis to ensure they remain compliant for their lifetimes.	Little or no ongoing monitoring of the compliance of promotions made by affiliates as required by <a href="#">COBS 4</a> .
Having oversight and control systems in place to ensure affiliates only communicate content prepared by the firm.	Control measures that solely focus on ensuring a particular communication is compliant and do not consider wider issues such as affiliates amending content or communicating their own promotions.
Terminating affiliate relationships where there are continued non-compliance issues.	Having many affiliate partnerships combined with inadequate controls and few staff to ensure compliance.

## Chapter 4

# Influencers and social media platforms

## What is an influencer?

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- 4.1** We've seen harm occurring from influencers communicating legal but non-compliant financial promotions (where promotions have been approved by an appropriate authorised person) and illegal financial promotions (where promotions have not been appropriately approved for the purposes of s21). The way influencers work varies. Some influencers have direct relationships with firms and others promote on their own initiative. Some of the different kinds of influencer business models are outlined below.
- 4.2** First, there are the archetypal celebrity influencers who are not associated with financial services but have large follower groups. These influencers are not financial experts but may be compensated for using their digital presence to promote companies that have a business interest in persuading people to make certain financial decisions.
- 4.3** Second, there are financial influencers known as 'finfluencers' who may not be authorised by the FCA to provide financial advice yet share their opinions and recommendations on digital platforms. Consumers show high levels of trust in finfluencers, but their advice can sometimes be misleading.
- 4.4** Third, there are forums and discussion groups on financial topics that function as spaces in which individuals exchange information and share knowledge. These forums can be both public (such as Reddit) or private (such as Telegram). Sometimes these groups are set up to encourage participants to register for a specific course or are used by participants to encourage others to engage in personal chats outside the platform where they sell financial advice or financial products.
- 4.5** All segments of the influencer market are capable of communicating a financial promotion, and whether a communication falls within the scope of s21 is not based on the size of an influencer's following.
- 4.6** The FCA has partnered with the ASA to create an [infographic](#), which is designed to help influencers make an informed choice when they are approached to promote a financial product or service. This infographic encourages influencers to consider whether they are the right person to promote a product or service as well as highlighting when they may be at risk of communicating financial promotions illegally.

Figure 13: FCA – ASA infographic to help influencers who have the opportunity to promote a financial product

**1**

**Fin-fluencing? Get it right.**

**Got an opportunity to promote a financial product to your followers?**

Did you know that the Financial Conduct Authority (FCA) polices the promotion of **MOST** financial products and services? You could be on the wrong side of the law if you promote without cluing yourself up first.

**2**

**Could you be providing financial product advice or arranging for your followers to deal in a financial product?**

Making an unlawful financial promotion is a criminal offence that carries a maximum sentence of 2 years imprisonment and an unlimited fine.

**3**

**Are you aware that the Advertising Standards Authority (ASA) regulates the promotion of other financial products, including cryptocurrency, fan tokens and NFTs, and ensures that all ads are responsible?**

If your post breaks the rules, the ASA will take action.

**4**

**Are your posts responsible?**

**Are you the right person to be promoting financial services and products?**

You have an obligation to your followers and they rely on what you post. Don't assume that they fully understand what you are promoting or that it's in their best interests to follow your guidance.

**5**

**Do you know that most crypto activities aren't regulated in the UK?**

If anything goes wrong with these products your followers could lose all their money. The FCA now polices the promotion of crypto so any social media posts must include clear risk warnings and must not incentivise people to invest.

**6**

**Is the company whose services you are promoting legitimate?**

Investment scams are on the rise and you may be unknowingly introducing your followers to criminals. If you are unsure, search 'ScamSmart'.

**7**

**Is it clear which of your posts are ads?**

You must label your content as an ad upfront if you get any form of payment (not just financial) from the brand, including affiliate links. Make sure you're working with a brand that knows the rules.

**Get it right – The checklist for responsible financial promotions**

The FCA and ASA monitor content online and will take action against those not following the rules. This checklist will help you get it right.

- Are you providing advice about a financial product?
- Are you authorised by the FCA or has your post been approved by an FCA authorised person? Seek legal advice if you are unsure.
- Have you or your agent done your due diligence?
- Does your post follow the ASA rules? Is it legal, truthful, responsible & correctly labelled as an ad?
- Promoting crypto? You must make it clear to your followers:
  - that cryptocurrency is unregulated;
  - profits may be subject to tax; and
  - the value of any investment could fall.
- Don't suggest to your followers that cryptoassets would be an easy investment decision or create any sense of urgency or FOMO.

**If in doubt, don't promote.**

## Other policies to be aware of

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- 4.7** Firms and influencers should be aware of wider regulation on advertising online set out by the ASA. The ASA recently [published an update on their expectations of influencer advertising](#). If an influencer receives payment or any other incentive from a brand, or they are otherwise personally or commercially connected to the brand, any content featuring or referring to the brand will need to be obviously identifiable as advertising. The ASA also has [guidance on advertising delayed payment services](#) (unregulated BNPL). More broadly, firms and influencers should make sure they have familiarised themselves with the [UK Code of Non-broadcast Advertising and Direct and Promotional Marketing](#) (the CAP code).
- 4.8** Influencers should also be mindful of the Market Abuse Regulation (MAR) if they are producing or providing investment recommendations on social media. Under [article 20](#) of MAR, anyone recommending or suggesting an investment strategy must make sure information is objectively presented and disclose any conflicts of interest. People who repeatedly propose investment decisions and who present themselves as having financial expertise and experience are required to disclose more detailed information. Further information can be found in [COBS 12.4](#), on [our website](#), and in our [technical standards](#).

## Social media platforms

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- 4.9** Firms and influencers using social media to communicate financial promotions should be aware of social media platforms' own policies relating to advertising on their platforms. There may be additional requirements or restrictions beyond what is set out in this Guidance. Firms and influencers should check a social media platform's own policy before using the service to communicate a promotion.
- 4.10** Online platforms need to consider how the financial promotion regime applies to them and ensure that they do not host illegal content. This includes removing this when alerted to its presence. Platforms should also consider whether their sites are suitable for promotions of certain high-risk products given their complexity. For example, some platforms have banned the promotion of binary options or other similar financial products.
- 4.11** Additionally, the Online Safety Act, among other things, places duties on online services, including but not limited to search engines and social media sites, to put in place proportionate systems and processes to mitigate the risks to users posed by illegal content on their sites, including illegal financial promotions. This new regime will be overseen by Ofcom. We continue to work closely with Ofcom to create a shared understanding of how platforms' obligations under the regime will interact with financial promotion legislation.

## Firms and their responsibilities as approvers of financial promotions

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- 4.12** Unauthorised influencers who are communicating financial promotions in the course of business without s21 approval from an appropriate authorised person are likely to be communicating an illegal financial promotion, unless the promotion is exempt under the FPO. An appropriate authorised person who approves a promotion would not necessarily be responsible if the contents of the promotion are changed by an unauthorised entity and communicated without permission.
- 4.13** Firms approving the financial promotions of influencers should consider the influencer's audience demographics and whether they are likely to have an audience with characteristics of vulnerability. For example, it would be inappropriate for investment firms to work with influencers whose content centres around tips on how to quickly get out of debt, without regard for the nature of the influencer's audience.
- 4.14** Firms that approve investment-related financial promotions (including for HRIs) are reminded that strengthened requirements (in COBS 4.10) apply to such approvals. Under the ongoing monitoring requirement, firms are required to play an active role in ensuring approved promotions remain compliant for their lifetime. In support of this requirement, they are also required to obtain attestations of 'no material change' for the approved promotion every 3 months.
- 4.15** Firms approving the communication of influencers' investment-related promotions should ensure they are playing an active role in ensuring the promotion remains compliant for its lifetime. They should also be mindful of their choice of influencer when communicating financial promotions. We've seen firms using influencers that may not be appropriate for the promotion of complex products such as CFDs. Firms should ensure the influencer understands the products or services they are promoting and how to be compliant in their promotions on social media.

### 'In the course of business'

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- 4.16** We've seen cases of influencers communicating financial promotions without realising they fall within the perimeter of s21. This is often because firms and influencers assume there must be direct compensation for an influencer's post to be subject to the financial promotion restriction. We've also seen examples of unauthorised persons communicating financial promotions in chatrooms without realising that any underlying commercial interest could mean the promotion is subject to the s21 restriction.
- 4.17** We've seen financial promotions be communicated on chatrooms such as Reddit and Telegram, often using memes to hype up specific investments. Users of chatrooms or forums should be aware that financial promotions on these channels will still be subject to the financial promotion restriction. This applies to both public and invitation-only platforms.

**4.18** Section 21 provides that a person must not communicate an invitation or inducement to engage in investment (or claims management) activity 'in the course of business'. We consider that this requires a commercial interest on the part of the communicator. This does not necessarily have to be a direct interest and, in our view, is intended to capture any level of commerciality. Where an influencer operates on a commercial basis and they communicate a financial promotion alongside their other content, in our view that is likely to be enough for the influencer to be considered to be communicating the promotion in the course of business.

**4.19** We've set out a non-exhaustive list of examples below to explain where influencers and unauthorised persons communicating financial promotions would, in our view, likely be acting 'in the course of business' within the meaning of s21. These scenarios purely look at the business test, but firms and unauthorised persons should consider all elements of s21 when considering whether communications are subject to the financial promotion restriction.

**An influencer is directly compensated by a firm and issues posts encouraging followers to use the firm's services.**

**4.20** An influencer would likely be acting 'in the course of business' because they are employed or recruited to promote the services of the firm and therefore the requirement that there is 'a commercial interest' on the part of the influencer, as set out in PERG 8.5.2G, would be satisfied.

**An influencer is not currently employed by a firm but is promoting a firm's services to generate revenue from a relationship with the firm in the future.**

**4.21** An influencer would likely be acting 'in the course of business' because they have a commercial interest in promoting the firm's services as they are communicating in anticipation of future revenue from a relationship with the firm. As set out in PERG 8.5.2G: (i) a person who is carrying on any business may satisfy the 'in the course of business' criterion if the promotion is in the course of business and (ii) the commercial interest does not have to be a direct interest.

**An influencer is promoting the services of a firm on a social media platform in a bid to acquire more views and attention for their content. They are then directly compensated by the social media platform for the views they acquire.**

**4.22** An influencer would likely be acting 'in the course of business' because the promotion is aimed at acquiring more views, attention, and 'traffic' for which they will be directly compensated by the online platform, which would constitute a commercial interest.



**An influencer is promoting the services of a firm but only to try to acquire more followers and likes. They will then use the increased followers and likes to ask for a higher fee in future brand deals with firms.**

- 4.23** An influencer would likely be acting 'in the course of business' because their promotion of the firm's services is to increase their followers or likes, improve their brand and use that improved brand to negotiate higher fees in future commercial deals. This constitutes a commercial interest. The interest does not need to be direct and therefore the 'future seeking' aspect of this scenario does not prevent it from being 'in the course of business.'

**Person A is promoting chatroom B which they run to promote investment products. They have a commercial relationship with firm C who sells investment products.**

- 4.24** Person A would likely be acting 'in the course of business' because there is a commercial interest on their part in promoting both chatroom B and they have a commercial relationship with firm C. This would be true even if person A is not promoting firm C's products in the chatroom or otherwise. Depending on the circumstances, the promotion of the chatroom alone may or may not be an invitation or inducement to engage in investment activity.

**Person A is promoting investment products on a social media platform to lead people to a chatroom centred around investing that they run or are involved in running. They gain a monetary benefit from the success of the chatroom, for example by selling courses about investing.**

- 4.25** Person A is likely to be acting 'in the course of business' because there is a commercial interest on their part to promote products to attract people towards a specialist investments chatroom they run or are involved in running. Depending on the circumstances, the promotion of the investment products in this example may or may not be an invitation or inducement to engage in investment activity.

**An influencer promotes the services of a firm through an affiliate link. When a consumer clicks the link and purchases the product the influencer will be directly compensated for their purchase.**

- 4.27** An influencer would likely be acting 'in the course of business' because they are promoting the firm's affiliate link and their services to receive direct compensation when the consumer clicks or purchases the product. Therefore, the requirement that there is 'a commercial interest' on the part of the influencer, as set out in [PERG 8.5.2G](#), would be satisfied.

# Annex 1

## Feedback Statement

### GC23/2: Financial promotions on social media

**Date of consultation: 17 July 2023 – 11 September 2023**

### Summary of feedback received

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1. In July 2023, we consulted on proposed guidance on the communication of financial promotions on social media.
2. We received 110 responses from a range of stakeholders, including financial services firms, individuals, trade bodies, not-for-profit organisations, consumer and practitioner panels, and a regulator. We would like to thank all respondents for their feedback.
3. The following statement summarises the feedback we received and our responses. The Final Guidance reflects our response to feedback and has minor amendments but remains largely unchanged from the draft Guidance. We present the feedback received and our responses under each of the questions posed in the Guidance Consultation.
4. Respondents generally welcomed updated guidance in light of the changing nature of social media and the introduction of significant regulatory changes, such as the Consumer Duty (the Duty), since the last Guidance was published in 2015. Several respondents asked for more specific guidance about how to comply with the Duty or how our rules apply to particular features of social media. Several respondents expressed concern that our approach to prominence was too onerous and might deter consumer engagement. Some respondents asked for more information about what oversight and monitoring of affiliate marketers, such as influencers, is appropriate. Several respondents argued that influencers and social media platforms should bear more responsibility for complying with our rules and preventing scams and fraud online.
5. Most of the responses we received from individuals were related to alleged scams or fraud they had encountered online or seen in the media. We've considered all the information received in line with our usual process. If you're suspicious about an investment you've seen online, or a financial service you've paid for, please report it to us. We look into every report we receive, and it could help protect others. [Our website](#) contains information about how to report scams or an unauthorised firm.

## Response to feedback received

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**Question 1:** *Do you agree with our approach to the prominence of required information in various social media settings? Please explain your answer, highlighting any other issues that would be useful to consider.*

6. Eleven responses argued that our approach to prominence, including for prescribed risk warnings that are required to be shown in promotions for some products and services such as high-risk investments (HRIs), goes too far. These responses tended to argue that consumers would be put off by large, prominent risk warnings and that this could lower consumer engagement and understanding.
7. Some respondents argued that the Guidance also increased the obligations on mainstream investment firms to provide risk information and would therefore reduce firms' ability to promote investing to consumers. They noted that this would be in opposition to our Consumer Investments Strategy ambitions of enabling firms to better support consumers that might want to invest and reducing the number of consumers with higher risk tolerances holding their money as cash.
8. Respondents raised several specific examples relating to various kinds of social media platforms and asked how our expectations would apply. This included whether information about risk needs to be included on every slide of a 'carousel post', what exactly constitutes a 'sustained period' in a video promotion, and whether information about risk has to be the same size font as the headline text of a post.
9. For prescribed risk warnings, respondents sought more information on whether it would be acceptable to truncate a risk warning behind an ellipsis, requiring consumers to 'click through' to view the complete warning. Some respondents asked whether a truncated warning combined with a signpost that linked to a webpage with the complete warning would be acceptable. Some respondents were particularly concerned about their ability to include complete risk warnings in promotions on character-limited platforms.
10. Some respondents asked for more visual examples showing how we expect risk warnings to be displayed in promotions on different kinds of social media for different kinds of products and services.
11. Some respondents argued that the requirement for promotions to be standalone compliant should be dropped in light of the Duty coming into effect. They put forward that this would give firms more flexibility to better promote consumer understanding throughout the consumer journey.

## Response

A core requirement of the Duty is that firms must support retail customer understanding and communicate information to retail customers in a way which is clear, fair and not misleading. Our approach to prominence is designed to ensure that consumers are equipped to make decisions that are effective, timely and properly informed. Generally, promotions should provide a balanced view of the benefits and risks to enable consumers to make better informed decisions.

In addition to the general requirement that promotions support consumer understanding, we require promotions for some products and services to display certain information 'prominently'. Further, some products and services are required to include prescribed risk warnings prominently in their promotions, and there are sometimes specific rules around how those risk warnings are to be displayed. We've updated the Guidance to clarify how we expect each of these categories of information to be displayed prominently in relevant financial promotions.

We understand that the requirement for some information to be prominently displayed in promotions for some products and services is likely to result in some consumers deciding not to engage with a promotion any further. Making this information available to consumers enables them to make a more informed choice in line with their needs and risk tolerance. It allows them to make a decision on whether and to what degree they wish to engage with the promotion based on clear, useful information. As the visual examples in the Guidance show, there are many ways to comply with our approach to prominence. We do not believe that consumers are likely to be unnecessarily deterred from engaging with products that are appropriate for them.

The Guidance does not increase the requirements on financial service providers, including mainstream investment firms, beyond the pre-existing standards required to comply with the Consumer Duty and the relevant sector sourcebooks. The appropriate level of detail for a promotion will depend on various factors, including the complexity of the product or service being promoted, and we have updated the Guidance to clarify that firms have flexibility in how they support consumer understanding with their promotions. We have also updated Figure 2 from the consultation (now Figure 3) to provide a simpler example of how a mainstream pension service could be promoted on social media.

We also remind firms that requirements for specific risk information to be prominently displayed are often triggered by the inclusion of relevant promotional elements, rather than being an absolute requirement. As outlined in the Guidance, where appropriate, firms can choose to use image advertising or other simple promotions to signpost consumers towards more detailed sources of information.

When we require certain information to be 'prominently' displayed, we've clarified that we expect this information should not be truncated or obscured by a design feature of the platform. If this is not possible, we've clarified that as much of the information should be displayed as possible or the information should be included in an accompanying image. This will only be appropriate if the promotion is still compliant with our rules on a standalone basis, despite the truncated text. We've also clarified that prescribed risk warnings should be prominent relative to other elements of a promotion, though not necessarily the same size font as the headline.

We've also updated the Guidance to clarify that for some products and services there may be additional requirements for how information is to be displayed. We've noted, as an example, that we expect prescribed risk warnings for HRIs not to be truncated or obscured at all. Just as it would be inappropriate to truncate or obscure part of a prescribed risk warning for HRIs behind a feature of a webpage, it is inappropriate to truncate or obscure part of a prescribed risk warning when the promotion appears on social media. This information is required to be displayed prominently because we saw too many consumers purchasing products and services that were not aligned with their risk tolerance and were unlikely to meet their needs.

The visual examples provided in the Guidance cover several different kinds of social media, including text and video-based formats, for a variety of financial products and services. Given the wide variety and rapidly evolving nature of social media platforms, we cannot provide examples of promotions for every type of product and platform. Firms should be testing how their promotions are displayed and ensuring that information is displayed as they intended, particularly if there is a requirement for certain information to be displayed prominently. We believe this Guidance, read alongside other guidance on the financial promotion rules, provides sufficient information for firms to comply with our rules and expectations.

We're retaining the requirement for financial promotions to be standalone compliant. The Duty gives flexibility to firms to deliver and demonstrate good consumer outcomes through the consumer journey. But we believe that removing the requirement for promotions to be standalone compliant would make it significantly easier for some firms to exploit consumer biases. There is a particular risk that some firms would try to anchor a consumer's opinion to an initial impression of a product or service that did not include appropriate information about the risks involved. Consumers may also not click-through to find additional information in the way firms anticipate. Ensuring all promotions give a balanced view of the benefits and risks so consumers can make properly informed and effective decisions is consistent with the aims of the Duty. As with our approach to prominence, we do not believe that consumers are likely to be unnecessarily deterred from engaging with products that are appropriate for them by requiring that every promotion presents an appropriately balanced view of the benefits and risks involved.

**Question 2:** *Do you have any comments on our proposed expectations under the Consumer Duty for communications on social media? Please highlight any other issues it would be useful to consider.*

- 12.** Many respondents welcomed guidance on how the Duty applies to financial promotions on social media. Several respondents asked for more specific examples and information about how to comply with the Duty on different social media platforms.
- 13.** Eight respondents questioned how firms can comply with the Duty when they do not have complete control over who sees a promotion on social media. Several responses were particularly concerned with the possibility that third parties could share a promotion beyond its target market, which they said might lead to a breach of the Duty.
- 14.** Some respondents asked for more information about how to test and show that their promotions on social media are delivering good consumer outcomes in compliance with the Duty.
- 15.** In our consultation, we said that we had seen consumers on social media inappropriately bombarded by promotions from the same service or firm. Several respondents asked us to define 'bombardment' more precisely. Some asked whether it could be considered bombardment if they were just using the tools provided by social media platforms to target advertisements at particular groups. Some respondents argued that platforms have the most control over who sees promotions and how often, and they should bear more responsibility for this issue.
- 16.** Other issues raised by respondents included what responsibility influencers and affiliates have for complying with the Duty and whether marketing to professional investors on social media is possible with sufficient disclaimers.

## Response

The Duty gives flexibility to firms to achieve and deliver good consumer outcomes. The aim of this Guidance is not to remove that flexibility by setting detailed expectations for every scenario or kind of promotion on social media. It is up to firms to apply the Duty requirements to their own promotions, in line with the Guidance provided here and in other places.

[FG22/5](#) gives examples of good and poor practice under the Duty that firms can refer to, including how to tailor communications to their target market and the communication channel used. [FG22/5](#) also provides guidance on how to test, understand, and evidence good consumer outcomes from their communications.

We recognise there may be circumstances where firms do not have complete control over who views their promotions on social media, similar to other advertising channels. In particular, confining promotions to a restricted target market on social media may be practically difficult. We've clarified in the Guidance that if firms are concerned that their promotion might be viewed beyond a restricted target market on social media and this might lead to consumer harm or non-compliance with the Duty, they should consider whether social media is an appropriate channel for that promotion. In particular, we've reminded firms that they should consider the target market for their product or service and must tailor communications to retail customers, taking into account the characteristics of retail customers and the communication channel used (PRIN 2A.5.4 and 2A.5.8).

Exactly what constitutes bombardment or excessive contact of an individual will depend on the facts of the case and factors such as the characteristics of the target market. In the Guidance, we've clarified that it is possible that using the tools provided by social media platforms to target advertisements at certain groups could result in consumers being inappropriately bombarded.

The Guidance contains information, including an infographic, to help influencers and affiliate marketers consider their responsibilities under our financial promotion rules, including the Duty.

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**Question 3:** *Do you agree with our approach to affiliate marketing? Please explain your answer, highlighting any other issues that would be useful to consider.*

- 17.** Some respondents to this question asked for more information on who would be considered an affiliate and whether affiliates or firms are responsible for ensuring promotions comply with our rules in certain circumstances. Several respondents asked us to clarify that firms would not be liable for illegal or non-compliant promotions made by 'rogue affiliates', who are acting in breach of the agreement they have with a firm, or for promotions communicated by influencers with whom they have no relationship.
- 18.** Several responses asked for more information about the level and kind of monitoring and oversight of affiliates, including influencers, that is required. Some asked us to give some examples of best practice oversight and monitoring. Two respondents argued that firms should only be required to make a 'best effort' to monitor and regulate the activity of influencers and affiliate marketers on social media.
- 19.** Some respondents called for further regulation of affiliates beyond what is considered in this Guidance, such as prescribed compliance training for affiliates or a register of approved influencers.
- 20.** One respondent asked whether affiliates who are paid commissions based on the number of sales they generate, or the volume of trading generated by those sales, might be engaged in the regulated activity of arranging deals in investments.

## Response

As some respondents noted, there are many different kinds of affiliate marketing and the exact nature of the relationship between an affiliate and a firm can vary widely. Our rules are designed to ensure that firms remain responsible for ensuring promotions that they communicate, or cause to be communicated, are legal and comply with our rules regardless of the exact nature of their relationship with an affiliate.

We've made it clear in the Guidance that an appropriate authorised person who approves a promotion would not necessarily be responsible if the contents of the promotion are changed by an unauthorised entity and communicated without permission. We've also reminded firms, however, that if they are concerned that an affiliate may alter their approved promotions or communicate unapproved promotions, they should consider whether it is appropriate to maintain their relationship with that affiliate, particularly given the requirements of the Duty.

We've also provided information in the Guidance about the responsibilities of affiliates and influencers when communicating financial promotions on social media. As the examples provided in the Guidance make clear, an influencer communicating a financial promotion on social media will often be doing so 'in the course of business' even if they do not have any kind of relationship with a firm. These promotions are likely to be subject to the financial promotion restriction and influencers should ensure that they only communicate them legally.

We've updated the Guidance to help affiliates consider whether they might be engaged in a regulated activity specified in the Regulated Activities Order (RAO).

Given existing regulatory structures, such as the standards set in our rules and by others such as the ASA, we do not believe it is necessary to introduce any additional regime for monitoring or ensuring compliance of affiliate marketers, such as influencers, at this time.

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**Question 4:** *Do you have any comments on the use of shared social media profiles between UK and non-UK entities? Please highlight any issues that would be useful to consider.*

- 21.** There was a mixed response to our suggestion that firms consider operating a separate UK-branded social media profile to mitigate the risk that UK consumers are directed to the website of an unregulated overseas group entity. Two respondents called for separate profiles to be mandatory for firms that want to make promotions to UK consumers. Three responses argued that separate profiles could increase the risk of scams and fraud by making it easier to impersonate firms online. Several other responses argued that maintaining separate profiles would be too costly, requiring too many staff to operate and ensure compliance with our rules.



22. Some respondents questioned if it was possible to prevent UK consumers from viewing promotions communicated by the social media profiles of overseas entities, and if these promotions would then be capable of having an effect in the UK and be subject to our rules.
23. Some other respondents argued that geo-locating tools are too expensive for smaller firms to use and asked for examples of other kinds of tools to ensure that UK consumers are not directed to the website of an unregulated overseas entity.
24. Several responses asked us to clarify if the financial promotions rules apply only to promotions capable of having an effect in the UK or to all promotions that can be viewed by a UK consumer, as paragraph 27 of the Guidance Consultation stated.

### Response

We continue to believe that operating a separate UK social media profile and using geo-location tools to redirect consumers automatically are strategies that firms should consider to mitigate the risk that UK consumers are directed to the website of an unregulated overseas entity. Many potential mitigation strategies may be suitable for firms to address this risk and it is up to firms to consider what they believe is appropriate for their circumstances, if they do not believe that these strategies are.

We've amended paragraph 27 from the Guidance Consultation to reflect that the test for whether the financial promotion restriction applies is whether the promotion is capable of having an effect in the UK.

We've also amended this section of the Guidance to explain more clearly when a financial promotion communicated by an unregulated overseas entity or a shared social media profile may be capable of having an effect in the UK and so be subject to the financial promotion restriction.

In particular, the Guidance explains that the broad scope of the restriction means that financial promotions communicated by an unregulated overseas entity through a social media profile shared with a regulated UK firm is likely to be capable of having an effect in the UK. Firms should consider whether promotions from their shared profiles and the profiles of overseas entities in their group are subject to the financial promotion restriction and, if so, whether an FPO exemption to the restriction applies or how these promotions are otherwise being communicated legally.

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**Question 5:** *Do you have any comments on the proposed guidance we've set out on the financial promotion perimeter? Please highlight any other issues that would be useful to consider.*

25. Several respondents called for more direct regulation of influencers, with suggestions to create a charter of good practice, create a licensing scheme or mandatory compliance training for influencers, or require influencers to declare their financial interests when communicating promotions. Several respondents called on us to do more to promote awareness of our rules among influencers.

26. One respondent asked if we could give examples of influencers communicating promotions on social media that would not be considered 'in the course of business' (the business test) and so not be subject to the financial promotion restriction.
27. Some respondents asked us for guidance on additional emerging features on some social media platforms, such as whether X's opt-in ad revenue sharing model made all posts on that platform 'in the course of business'.

## Response

As our response to question 3 indicates, we believe that existing regulatory structures provide appropriate regulation of influencers to support good consumer outcomes. We do not believe it is necessary to introduce any additional regime for monitoring or ensuring compliance of affiliate marketers, such as influencers, at this time. We will continue to monitor the way firms and influencers communicate financial promotions on social media to ensure that our rules provide appropriate protection for consumers.

As the Guidance indicates, affiliates and influencers should be aware of the standards and expectations set by the ASA. The Guidance discusses several relevant standards, including the ASA's [update on their expectations of influencer advertising](#) and the UK Code of Non-broadcast Advertising and Direct and Promotional Marketing (the CAP code).

As set out by the ASA, influencers are already expected to make any content featuring or referring to a brand to which they are personally or commercially connected obviously identifiable as advertising.

As the examples in this Guidance make clear, many typical uses of social media by influencers are likely to satisfy the business test for the financial promotion restriction. The purpose of this Guidance is to make it clear to influencers that promotions they communicate on social media are likely to be within our perimeter where they have some commercial interest in what they are posting and encourage them to consider their obligations. We believe the current set of examples is appropriate to accomplish this.

As the examples in the Guidance also make clear, if a user of social media is earning revenue from their use of a platform, particularly where they have opted-in to earn that revenue, their communications on that platform are likely to be made 'in the course of business'. Influencers and other users should be aware of how emerging features of social media may affect their obligations under our rules.

**Question 6:** *Do you have any additional comments on our proposed guidance or think there are any other topics we should consider?*

- 28.** Most respondents to this question were individuals providing information on alleged scams or frauds they had encountered online or had seen reported by the media.
- 29.** Several respondents called for more support to combat scams, particularly those that mimic a firm's branding to deceive consumers. Several respondents called for the Guidance to be more prescriptive about how promotions can be made on social media to make it easier and faster for platforms to identify fraudulent promotions and remove them. Some respondents argued that unauthorised content from unregulated persons was creating the most consumer harm on social media and called for us to do more to disrupt this kind of activity.
- 30.** Several respondents suggested additional rules for us to consider. This included licencing platforms to communicate only certain kinds of financial promotions or banning all financial promotions on social media.
- 31.** Several respondents asked for more specific guidance on various topics. This included the use of hashtags in promotions, what is appropriate record-keeping by firms to evidence compliance, and the definition of 'social media'.

### Response

We thank respondents for providing information on alleged scams in their responses to us. We've considered all the information received in line with our usual process.

If you're suspicious about an investment you've seen online, or a financial service you've paid for, please report it to us. We look into every report we receive, and it could help protect others. [Our website](#) contains information about how to report scams or an unauthorised firm.

Fighting financial crime is a priority for the FCA and a key commitment in [our three-year strategy](#). In addition to this updated Guidance, the FCA is taking a lead role in influencing technology companies to implement effective controls to stop scams, or otherwise illegal promotions, from appearing on their platforms. Even if these companies are not regulated firms, we regularly and proactively engage with them on issues that we know are affecting customers and retail investors, sharing our intelligence and practical suggestions for positive changes. Following this engagement, many of the largest search engines and social media platforms have implemented new financial services verification policies to ensure they only allow financial promotions that are made by, or with the approval of, authorised persons.

We continue to engage with all major online platforms to ensure they do not allow or facilitate unlawful financial promotions or other unlawful conduct relating to financial services. We also continue to work closely with partners in regulated firms, government, law enforcement agencies and other regulators to prevent and disrupt illegal online promotions. This includes working with Ofcom to create a shared understanding of the obligations of online services under the Online Safety Act and financial promotions legislation.

Social media is an increasingly important channel for engaging consumers and giving them the information they need to make informed and effective decisions about their financial lives. We will continue to monitor consumer outcomes and emerging harms from financial promotions on social media and adjust our rules and expectations as required to support good consumer outcomes. We do not believe that banning all financial promotions on social media would support consumer understanding or good consumer outcomes. When presented in the right way, by providing balanced and timely information about benefits and risks, financial promotions on social media can help consumers access financial products and services that meet their needs.

This Guidance updates our expectations to take account of some new features of social media since the last Guidance was published in 2015. As several respondents pointed out, social media platforms continue to evolve rapidly. We cannot address or anticipate every new feature. We believe this Guidance, considered alongside our other relevant rules, policy statements, and guidance, offers firms and others communicating financial promotions on social media suitable information to comply with their obligations and deliver good consumer outcomes.

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Access the full text of the [Guidance Consultation](#)

## Annex 2

# Abbreviations used in this paper

<b>Abbreviation</b>	<b>Description</b>
<b>APR</b>	Annual percentage rate
<b>ASA</b>	Advertising Standards Authority
<b>BNPL</b>	Buy-now-pay-later
<b>CAP Code</b>	UK Code of Non-broadcast Advertising
<b>CBA</b>	Cost-benefit analysis
<b>CEO</b>	Chief executive officer
<b>CFDs</b>	Contracts for differences
<b>FCA</b>	Financial Conduct Authority
<b>FG</b>	Finalised guidance
<b>FPO</b>	Financial Services and Markets Act 2000 (Financial Promotion) Order 2005
<b>FSMA</b>	Financial Services and Markets Act 2000
<b>HCSTC</b>	High-cost short-term credit
<b>HRIs</b>	High-risk investments
<b>MAR</b>	Market Abuse Regulation
<b>MLRs</b>	Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017
<b>OP</b>	Occasional paper
<b>P2P</b>	Peer-to-peer
<b>PECR</b>	Privacy and Electronic Communications Regulations 2003
<b>PERG</b>	Perimeter Guidance Manual
<b>PS</b>	Policy statement

Abbreviation	Description
<b>RAO</b>	Financial Services and Markets Act 2000 (Regulated Activities) Order 2001
<b>RMMIs</b>	Restricted mass-market investments
<b>s19</b>	Section 19
<b>s21</b>	Section 21
<b>SYSC</b>	Senior Management Arrangements, Systems and Controls sourcebook
<b>UK</b>	United Kingdom
<b>WCAG</b>	Web Content Accessibility Guidelines

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