

Chapter 2

Conduct of business standards: general

2.2 Communications

Purpose

- 2.2.1** **G** The purpose of **MCOB 2.2** is to restate, in slightly amended form, and as a separate *rule*, the part of *Principle 7* (Communications with clients) that relates to communication of information. This enables a *customer*, who is a *private person*, to bring an action for damages under section 138D (Contravention of rules) of the *Act* to recover loss resulting from a *firm* that carries on the activities referred to in **MCOB 2.1.3 R** communicating information, in the course of those activities, in a way that is not clear or fair, or that is misleading. **MCOB 2.2** also clarifies the expectations of the *FCA* where any *rule* requires the provision of information and there are two or more *customers*.

General

- 2.2.2** **G** In many circumstances there will be two or more *customers* under any *home finance transaction*, or two or more prospective *customers* looking to enter into the same *home finance transaction*. In such circumstances, where a *rule* in *MCOB* requires the provision of information to such *customers* and the *customers* have different addresses, a *firm* sending out this information should send it to each address. If the *customers* share the same address it will be sufficient to send a single copy of the information addressed to each of the *customers*.

Prescribed terms for regulated mortgage contracts, home reversion plans and regulated sale and rent back agreements

- 2.2.3** **R** In any communication to a *customer*, a *firm* must:
- (1) describe any *early repayment charge* as an 'early repayment charge';
 - (2) describe any *higher lending charge* as a 'higher lending charge';
 - (3) describe any *lifetime mortgage* as a 'lifetime mortgage';
 - (4) describe any *home reversion plan* as a 'home reversion plan'; and
 - (5) describe any *regulated sale and rent back agreement* as a 'sale and rent back agreement';

and not use any other expression to describe them.

2.2.4	R	<p>Prescribed terms for regulated mortgage contracts, home reversion plans and regulated sale and rent back agreements.....</p> <p>[deleted]</p>
2.2.5	G	<p>Related investment advice.....</p> <p><i>Firms</i> are reminded that they should follow the relevant <i>rules</i> in ■ COBS 6 and ■ COBS 13 relating to advice and disclosure on <i>investments</i> if they are <i>advising the customer on an investment</i> such as an annuity associated with an <i>equity release transaction</i> or an <i>ISA</i> used as a <i>repayment strategy</i>.</p>
2.2.6	R	<p>Clear, fair and not misleading communications and financial promotions.....</p>
2.2.6	R	<p>(1) When a <i>firm</i> communicates information to a <i>customer</i>, it must take reasonable steps to communicate in a way that is clear, fair and not misleading.</p> <p>(2) [deleted]</p>
2.2.6A	R	<p>A <i>firm</i> which <i>approves a financial promotion</i> of a <i>home purchase plan</i> must take reasonable steps to ensure that the <i>financial promotion</i> is clear, fair and not misleading.</p>
2.2.7	G	<p>When considering how to comply with the requirements of ,these <i>rules</i> on clear, fair and not misleading communications and <i>financial promotions</i>, a <i>firm</i> should have regard to the <i>customer's</i> knowledge of the <i>home finance transaction</i> to which the information relates.</p>
2.2.8	G	<p>The <i>rule</i> on clear, fair and not misleading communications covers all communications with <i>customers</i>, for example any oral or written statements, telephone calls and any correspondence which is not a <i>financial promotion</i> to which ■ MCOB 3 (Financial promotion) applies. In respect of <i>financial promotions</i> of <i>qualifying credit</i>, of <i>home reversion plans</i> or of <i>regulated sale and rent back agreements</i>, <i>firms</i> should note the separate requirements of ■ MCOB 3.</p>
2.2.8A	R	<p>If a <i>firm</i> uses a figure equivalent to an <i>APR</i> in a communication of a <i>financial promotion</i> of a <i>home purchase plan</i>, when calculating that figure it must use an approach equivalent to the <i>APR rules</i>.</p>
2.2.8B	G	<p>The following guidance may be relevant to a <i>firm</i> that <i>communicates</i> or <i>approves a financial promotion</i> of a <i>home purchase plan</i>:</p> <p>(1) guidance on what 'communicate', 'approve' and 'financial promotion' mean, and on the media of communication to which <i>financial promotion rules</i> apply (see ■ MCOB 3.2.1 G and ■ MCOB 3.2.2 G);</p> <p>(2) guidance on other <i>Handbook</i> provisions relevant to <i>financial promotions</i> (see ■ MCOB 3.2.8 G to ■ MCOB 3.2.9 G);</p>

- (3) guidance on other regulations and guidelines relevant to *financial promotions* (see ■ MCOB 3.5.3 G);
- (4) guidance on referring to the *FCA* (see ■ MCOB 3.6.2 G (3));
- (5) guidance on the clear, fair and not misleading standard (see ■ MCOB 3.6.5 G, ■ MCOB 3.6.10 G and ■ MCOB 3.6.14 G); and
- (6) guidance on the use of the Internet for *communicating financial promotions* (see ■ MCOB 3.12 and ■ PERG 8.22).

2.2.9

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Prominence of relevant information can play a key role in ensuring that a communication is clear, fair and not misleading. Where this is the case, the *firm* should consider prominence in the context of the communication as a whole. Use can be made of the positioning of text, background and text colour and type size to ensure that specified information meets the requirements of *MCOB*.