

Chapter 2

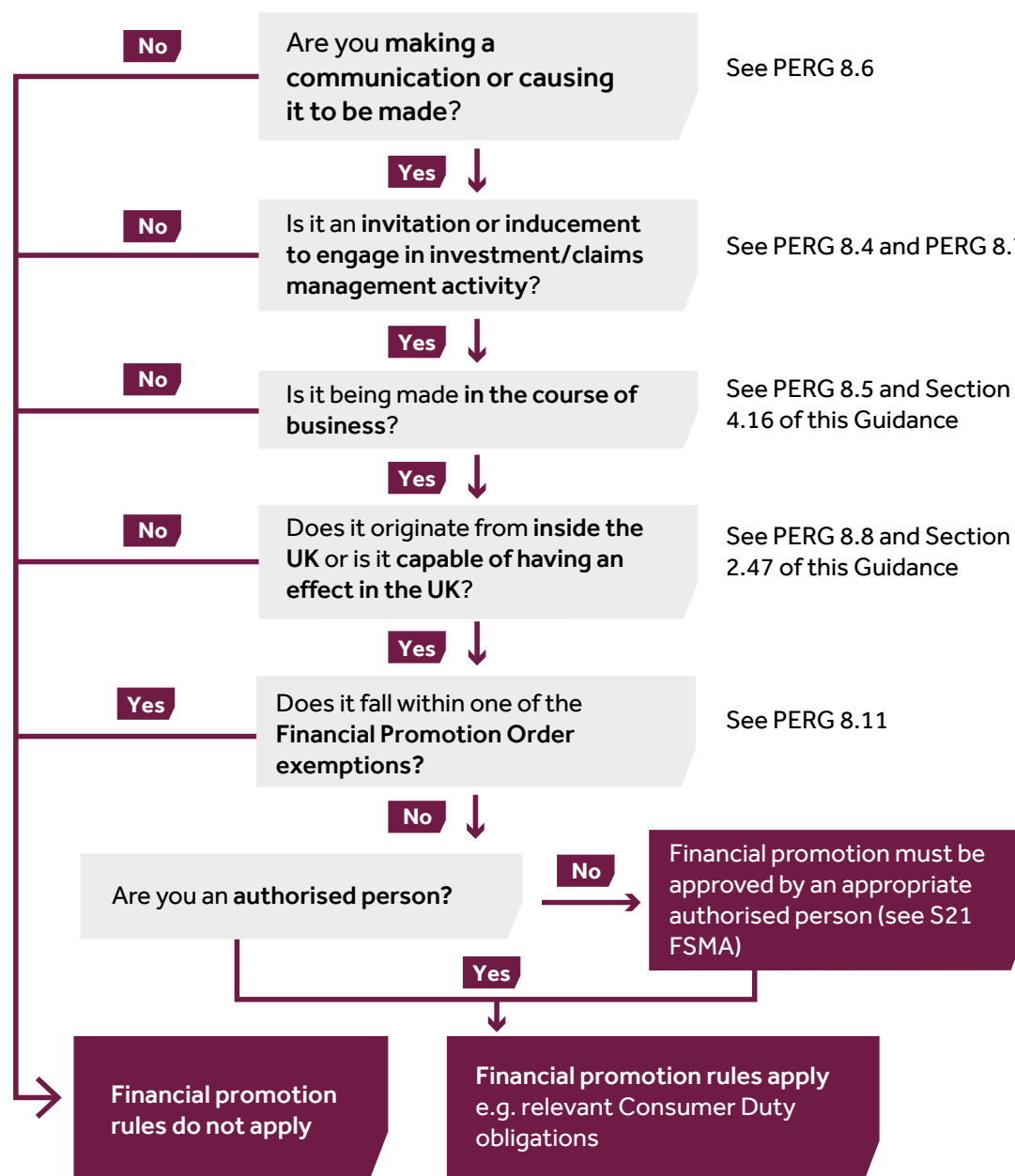
Financial promotions on social media

What is a financial promotion?

- 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

- 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

- 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

- 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

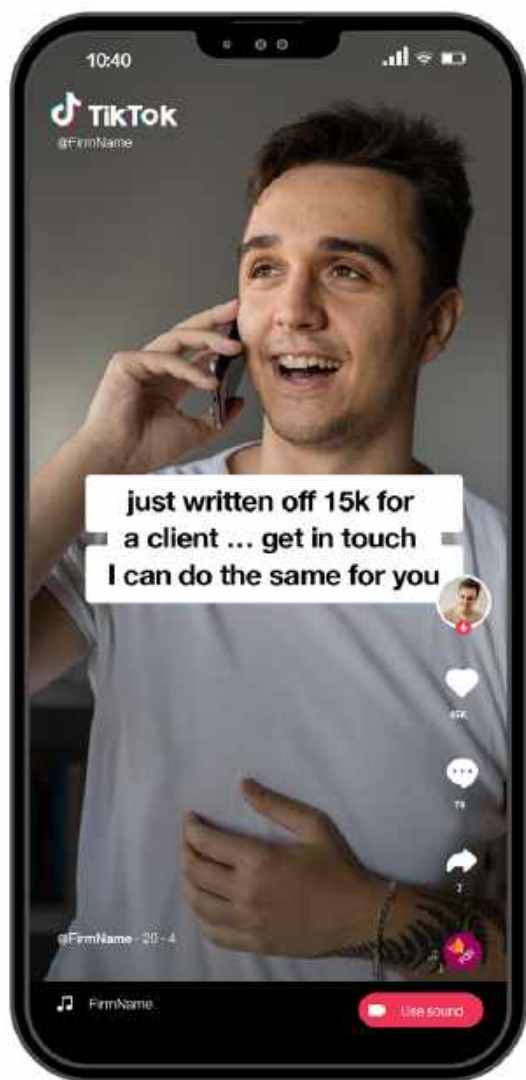


Figure 5: A debt counselling promotion that signposts consumers to a more appropriate channel for more information



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)

- 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

- 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

	Features of a prominent risk warning	Does not comply with our expectations
Stories and carousel posts (eg Instagram posts with multiple pictures)	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.
Livestreams (including gaming streams such as Twitch)	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.
Character-limited media	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.
Short-form video content (eg TikTok)	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).
Long-form video content (eg YouTube)	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

- 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.