

# UK's FCA FG24/1: Finalised guidance on financial promotions on social media

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**The FCA has set out its expectations for firms and others, including influencers, using social media to communicate financial promotions**

## Why should I read this?

It is well established that any financial promotion needs to be fair, clear and not misleading and support consumer understanding. FG24/1 "[Finalised guidance on financial promotions on social media](#)" (the "**Guidance**") published by the FCA on Tuesday 26 March provides additional guidance on what this means when firms publish financial promotions on social media.

It is important when considering the use of social media to promote financial products to remember that the FCA's rules on financial promotions are 'tech neutral'; in other words they are not tailored to the medium in which they are delivered, such as social media. The Guidance does not introduce new obligations, but rather seeks to bridge that gap by indicating how firms might comply with the existing obligations. It does this by highlighting the obligations which are relevant in a social media context, when social media content might constitute a regulated financial promotion and, importantly, who is responsible for such content. The Guidance also sets out examples of good and bad practice.

The FCA first published guidance on the use of social media to communicate with customers back in 2015. The fact that that guidance started with the Oxford Dictionary definition of 'social media' shows how much has changed and how necessary it was for that guidance to be updated to reflect current practice and the rise of the influencer, as well as regulatory developments in the interim, most significantly the introduction of the Consumer Duty. Indeed, influencers now have their own chapter in the Guidance.

The Guidance should not be thought of as a one-stop-shop because there are requirements and additional pieces of guidance for specific types of promotion (for example, there are already numerous FCA publications relating to cryptoasset promotion), but it does cross-reference these and should serve as a helpful first resource for those firms and individuals promoting financial products on social media.

## What practical steps should I take on making financial promotions on social media?

The Guidance has practical implications for both firms and individual influencers.

**Authorised firms communicating or approving financial promotions on social media must bear the following in mind:**

- any form of communication on social media, including memes, can be a financial promotion, even if 'private' or on invitation-only chatrooms/channels like Discord or Telegram

- it is difficult to retain control over content once it has been posted to social media, where it can be liberally shared. Social media is unlikely to be suitable if the content is for a restricted audience
- the potential audience needs to be considered carefully when identifying the target market for the product/communication and tailoring the content, which is relevant to whether a promotion is clear, fair and not misleading and otherwise meets the Consumer Duty
- each promotion must be compliant in isolation; requiring recipients to click through to access risk warnings will often be insufficient
- firms need to consider the suitability of social media. The more complicated a product or service, the less likely it is that social media will be an appropriate communication medium
- any risk warnings need equal prominence with the promotional element of social media content, which means they should not be hidden
- care needs to be taken where different firms in the same group use the same social media account, especially if some are authorised and some are not
- bombarding (potentially vulnerable) customers with content is unlikely to be in line with the Consumer Duty
- promotions on social media are generally unsolicited and non-real time, even where live-streamed, which has an effect on the rules which apply to such promotions
- firms need to keep independent records of the promotions which they make on social media and not rely on the platform to do so
- care needs to be taken when selecting an influencer marketing affiliate to ensure that they understand the product, that their audience is appropriate and that they will not alter approved promotions
- firms also need to oversee and monitor the activities of any influencer marketing affiliates to ensure sustained good customer outcomes, including over the longer term

**Influencers and unauthorised persons communicating financial promotions on social media need to be aware of the following:**

- any influencer can communicate a financial promotion – whether or not this is the case does not depend on the platform or size of the influencer’s following, but their content
- influencers may not only breach the financial promotion restriction, but also the general prohibition, when referring followers to a financial services firm. Each is a criminal offence
- while an influencer needs to be acting in the course of business to breach the financial promotion restriction (or the general prohibition) this does not require them to be paid for the relevant post/content relating to a financial product. For example, it would be enough that they did so to grow their following, which following they intended to monetise in some way

**What else do I need to know about financial promotions on social media**

The FCA has re-confirmed the broad scope of the financial promotion regime. While the Guidance does not contain any new substance, it should provide firms with some helpful real world examples of how to comply with the existing rules. It serves to underline how unsuitable some social media platforms may be for certain, especially complex, products. It also highlights the risks social media influencers can run by posting content about financial products and services if they do not conform strictly to parameters laid down by an appropriate authorised firm.

## See our previous client briefings

- [The Financial Conduct Authority's new regulatory gateway for approval of financial promotions](#)
- [UK's FCA writes to cryptoasset firms marketing to UK consumers about new financial promotion rules](#)

## How Eversheds Sutherland can help

We provide guidance to authorised individuals regarding financial promotions regulations and how to fulfil the necessary criteria when granting approvals for financial promotions by unauthorised parties, both in specific cases and within the broader context of financial services regulation.

*Thank you to Tim Fosh for co-writing this article.*