

PUBLIC

# Financial Promotions Update

Dear CEO Letter

June 2022  
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We are aware that many of our dealer partners have recently received the FCA's [Dear CEO letter](#) on financial promotions.

For those that haven't, we wanted to make you aware and for those that have we hope it is helpful that we share with you Evolution Funding's up to date Financial Promotions Guide, as well as giving our first thoughts on the key elements mentioned that you should make sure your business considers.

**The information provided in this guide is for reference and guidance only, and is based on our interpretation of the requirements in CONC. It is your responsibility to ensure all your communications and advertisements follow the requirements set out by the Financial Conduct Authority. By not conforming to the FCA rules and guidance, you may be subject to consequences such as fines or the loss of your FCA authorisation.**

You may wish to seek independent legal advice to ensure your promotions comply.

## Background

- The FCA regulates the communication and approval of financial promotions.
- In the letter the FCA refers to financial promotions as “an invitation or inducement to enter into an agreement, the entry into or performance of which would constitute credit broking activity or providing relevant consumer credit, including high-cost lending.”
- Authorised firms must ensure their communications and financial promotions are clear, fair and not misleading. We would refer to the rules and guidance under [CONC 3.3](#) for further details on what this means.

FPG - Clear, Fair and not Misleading: [Page 4](#)

## Use of misleading terms

- The FCA have identified a number of financial promotions by credit brokers using phrases such as “no credit check loans”, “loan guaranteed”, “pre-approved” or “no credit checks”.
- While a credit broker may not conduct a creditworthiness assessment itself, the FCA are concerned that consumers may be led to believe that the lender will make no checks on credit status as a result.
- The letter refers specifically to the rules under CONC 3.3.1R (clear, fair and not misleading requirement), CONC 3.3.3R (a firm must not imply credit is available regardless of the customer's financial circumstances or status).

## Failure to include the Representative APR

- The FCA defines the circumstances which a Representative APR is required within a financial promotion under CONC 3.5.7R (1):
  - a) States or implies that credit is available to individuals who might otherwise consider their access to credit restricted; or
  - b) Includes a favourable comparison relating to the credit, whether express or implied, with another person, product or service; or
  - c) Includes an incentive to apply for credit or to enter into an agreement under which credit is provided.
- Firms are also reminded of the Representative APR definition which is an “APR at or below which the firm communicating or approving the financial promotion reasonably expects, at the date on which the promotion is communicated or approved, that credit would be provided under at least 51% of the credit agreements which will be entered into as a result of the promotion”.
- Rules and guidance on financial promotions about credit agreements not secured on land can be found under [CONC 3.5](#).

**FPG - What is a Representative APR:** [Page 5](#)

## Credit broker not a lender statement

- The FCA have identified financial promotions by credit brokers that do not state that they are a credit broker, and not a lender.
- This is a requirement under CONC 3.7.7R (1), which states “A firm which is a credit broker and not a lender must ensure that any financial promotion states prominently that the firm is a credit broker and that it is not a lender.”

**FPG - Eligibility Criteria and Status Disclosure:** [Page 10](#)

## Other considerations

- Ensuring communications of financial promotions remain compliant across all media platforms. The FCA’s letter references the challenges with some platforms, for example character limitations, however they consider it possible to comply with their requirements despite this.
- The FCA previously issued a case study on a car finance hire purchase promotion, highlighting the common mistakes seen: [Financial promotions case studies | FCA](#)
- Firms must also ensure they are compliant with the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code), which is administered by the Advertising Standards Authority (ASA).

**FPG - Digital Promotions:** [Page 12](#)

## Actions you need to take

- Review any financial promotions you have that are currently in use, to ensure you are satisfied these comply with the requirements under CONC 3.
- Consider conducting a review of your processes, systems and controls for financial promotions. This should consider oversight of any Appointed Representatives you may have, as well as the media platforms you use, such as websites, social media and paid advertising, e.g. Google ads. The FCA recommends keeping a record of this review.
- Draw this letter to the attention of your board. The FCA expects the Board to have considered the issues raised and approved any actions taken in response. Evidence of these actions taking place should be retained, as well as the outcomes of these.