

"It is important that all firms ensure financial promotions are fair, clear and not misleading so that customers are able to make informed decisions. We are disappointed to see standards fall short of what we expect, particularly in the consumer credit space, four months from when we took over regulation. We believe that firms in this sector can do more to ensure financial promotions meet the standards we would expect and will continue to monitor performance in this area."

Clive Adamson, director of supervision at the FCA – August 2014

In this our third bulletin aimed at helping you navigate the changes that regulation by the Financial Conduct Authority (FCA) has brought about, we will focus on financial promotions.

Financial promotions was mentioned briefly as a key topic in our previous two bulletins and there continues to be frequent comment in the press from the FCA with regards their findings, any short comings and their commitment to ensure firms meet the required standards.

Back in May we told you we were undertaking a full review of the requirements and would in due course be making some guidelines available to help you with your own advertising. I'm pleased to say that these guides are now ready to share, and we have already been to both Kia & Hyundai to present to their marketing teams and roll out new processes.

So what exactly is a Financial Promotion?

Officially a financial promotion is a communication that is an invitation or an inducement to engage in investment activity. The term 'engage in investment activity' refers to 'controlled activities' and 'controlled investments'. This includes firms that provide or advise on Consumer Credit.

The rules for financial promotions apply across all media. When deciding whether a communication is a financial promotion, the regulator will look at whether it is an 'invitation or inducement to engage in investment activity', not the way it is communicated. So whether it's on a website, down the side of a car, or in a magazine the financial promotions rules will still apply.

Financial promotions play a key role in the FCAs overall aim of delivering an efficient and effective retail market in financial services and in helping consumers to achieve a fair deal. In particular, work on raising standards in financial promotions helps ensure consumers receive and use clear, simple and understandable information. This should also help them become more capable and confident in the decisions they need to make.

What are the rules regarding Financial Promotions?

The Consumer Credit (Advertising) Regulations 2010 have been incorporated in to the FCA Handbook together with some of the Office of Fair Trading guidance under Section 3 of the

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Hyundai Capital UK Limited trading as Kia Motors Finance and Hyundai Finance. Registered office: 86 Station Road, Redhill, Surrey RH1 1SR. Registered in England number 7945949. Hyundai Capital UK Limited is authorised and regulated by the Financial Conduct Authority in respect of agreements regulated by the Consumer Credit Act 1974 and for general insurance mediation activity. Our Firm Reference Number is 581186. Hyundai Capital, Kia Motors Finance and Hyundai Finance are registered trademarks.

Consumer Credit Sourcebook, known as CONC. Financial promotions must be compliant with all aspects of the FCAs requirements with effect from **1st October 2014**.

The overarching FCA rule in place, CONC 3.3.1, requires financial promotions to be **“clear, fair and not misleading”**.

The general rules under CONC 3.3.2 are that a firm must ensure that a financial promotion:

- uses plain and intelligible language;
- is easily legible (or, in the case of any information given orally, clearly audible);
- specifies the name of the person communicating the financial promotion or the person on whose behalf the financial promotion is made; and
- in the case of a financial promotion in relation to credit broking, indicates to the customer the identity of the lender (where it is known).

Guidance on Clear, Fair and Not Misleading

A firm should ensure that each communication and each financial promotion:

- is accurate and, in particular, should not emphasise any potential benefits of a product or service without also giving a fair and prominent indication of any relevant risks;
- is sufficient for, and presented in a way that is likely to be understood by, the average member of the group to whom it is directed, or by whom it is likely to be received;
- does not disguise, diminish or obscure important information, statements or warnings; and
- is clearly identifiable as such.

What powers does the FCA have in relation to Financial Promotions?

A power under section 137S of the Financial Services and Markets Act 2000 enables the FCA to ban misleading financial promotions. This power means they can remove promotions immediately from the market, or prevent them from being used in the first place, without going through an enforcement process.

In addition the FCA has additional enforcement powers including the ability to issue unlimited fines, the ability to revoke a firms FCA authorisation and in extreme circumstances the ability to prosecute through criminal courts.

The FCA is expected to take a far greater degree of active policing in respect of financial promotions than previous regulators and will be monitoring firms via:

- Proactive scanning of adverts using a media and advertising intelligence service
- Review of complaint data including complaints received via the FCA financial promotions hotline
- Closer alliance with the Advertising Standards Authority and Trading Standards who will remain in place and relevant

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So what has been produced?

Hyundai Capital has produced both a Kia Motors Finance and Hyundai Finance branded summary reference guide for financial promotions for retail credit. In addition we have compiled a checklist as an aide memoir to some of the requirements and triggers when producing advertising.

Hyundai Capital is committed to being a value add partner, in that I mean we aim to provide more than just finance to our supporting dealers. We aim to bring about a more rounded value proposition, whereby you get access to and support for things which help you run your business better, and we operate as true partner. We believe these bulletins and guidance are one such example of that.

In closing it would be remiss of me not to remind you that these guides are just that, guidance. Guidance on a largely principles based regime. Each of your businesses will ultimately be authorised by the FCA in their own right, and some of you will carry the personal responsibility that brings with it too. Therefore it is strongly recommended that you seek independent legal advice before publishing any form of financial promotion.

Kind regards

A handwritten signature in black ink, appearing to read 'Stewart Grant'.

Stewart Grant
Managing Director
Hyundai Capital (UK) Ltd

THE CONTENT OF THIS BULLETIN IS FOR INFORMATION ONLY AND DOES NOT CONSTITUTE LEGAL ADVICE. IF LEGAL ADVICE IS REQUIRED, BUSINESSES SHOULD CONSULT THEIR OWN LAWYERS.

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