Strengthening Financial promotion rules for

high-risk Investments

Having issued a consultation in January 2022 (CP22/2), in policy statement PS22/10, the FCA are introducing new rules for firms approving and communicating financial promotions for high-risk investments, to ensure that consumers can make informed financial decisions.

The new rules:

- Strengthen risk warnings
- Ban inducements to invest
- Introduce positive frictions
- Improve client categorisation
- Strengthen appropriateness tests

Rules relating to risk warnings will take effect from 1 December 2022 and all other rules will take effect from 1 February 2023.

Scope

The new financial promotions rules will apply to firms approving and communicating financial promotions for high-risk investments which are directed at, or likely to be received by, retail clients*.

High-risk investments include non-mainstream pooled investments, non-readily realisable securities, speculative illiquid securities and Peer-to Peer investments.

**"Retail clients" is a wide term that includes all clients other than professional clients (such as large corporate entities and government bodies) and eligible counterparties.*

Classification of high-risk investments

Readily Realisable Securities (RRS)

- Listed or exchange traded securities, e.g., shares or bonds traded on the London Stock Exchange

No marketing restrictions

Restricted mass market investments (RMMI)

- Non-Readily Realisable Securities (NRRS), e.g., shares or bonds in a company not listed on an exchange
- Peer-to-Peer (P2P) agreements

Mass marketing allowed to retail investors subject to certain restrictions

Non-mass market investments (NMMI)

- Non-Mainstream Pooled Investments (NMPI), e.g., pooled investments in an unauthorised fund
- Speculative Illiquid Securities (SIS) e.g., speculative mini-bonds.

Mass marketing banned to retail investors

Risk Warnings (to be in place by 1 December 2022)

New investment risk warning statements have been issued as follows:

Restricted mass market investments (RMMI)

- Non-Readily Realisable Securities (NRRS)

Don't invest unless you're prepared to lose all the money you invest. This is a high-risk investment and you are unlikely to be protected if something goes wrong. Take 2 mins to learn more.

- **P2P agreement or portfolio**

Don't invest unless you're prepared to lose money. This is a high-risk investment. You may not be able to access your money easily and are unlikely to be protected if something goes wrong. Take 2 mins to learn more.

Non-mass market investments (NMMI)

Financial Promotions only to be communicated to certified high net worth investors, certified or self-certified sophisticated investors.

- Non-Mainstream Pooled Investments (NMPI)

Don't invest unless you're prepared to lose all the money you invest. This is a high-risk investment and you are unlikely to be protected if something goes wrong. Take 2 mins to learn more.

- Speculative Illiquid Securities (SIS)

Don't invest unless you're prepared to lose all the money you invest. This is a high-risk investment and you are unlikely to be protected if something goes wrong. Take 2 mins to learn more.

The 'Take 2 mins to learn more' component of the risk warning will need to link to risk summaries. The FCA are allowing firms to tailor these prescribed risk summaries to the nature of the investment.

Contents of Financial promotions (to be in place by 1 February 2023)

Financial promotions must contain the name of the firm (and the firm that approved the financial promotion if different from the firm) and the date of approval.

For financial promotions relating to Innovative Finance ISAs, the promotion must contain an - express warning that holding an investment within an innovative finance ISA does not reduce the risks associated with that investment or guarantee returns and that it is possible to lose all of the money invested.

Approving Financial Promotions (to be in place by 1 February 2023)

The firm must satisfy itself that the financial promotion is in compliance with the rules and takes appropriate steps to ensure it remains compliant for the lifetime of the communication. Any individual approving the financial promotions must have appropriate expertise and competence.

Incentives to invest (to be in place by 1 February 2023)

Any form of incentives to invest or refer another person have been banned

Conditions for direct offer financial promotions for restricted mass market investments (RMMI) (to be in place by 1 February 2023)

- **Cooling off period**

A 24-hour cooling off period is introduced following the request to receive the direct offer financial promotion and the communication of the financial promotion. The firm must then request whether the retail client would like to leave the investment journey or continue to receive the offer. In the intervening period, the firm is allowed to carry out activities such as KYC/AML checks, providing personalised risk warnings, client categorisation and appropriateness assessment.

- **Personalised risk warning**

Before communicating the direct offer financial promotion, the firm must obtain the retail client's full name and then communicate the following personalised risk warning:

[Client name], this is a high-risk investment. How would you feel if you lost the money you're about to invest? Take 2 mins to learn more.

The firm must then request whether the retail client would like to leave the investment journey or continue to receive the offer.

- **Categorisation**

Before communicating the direct offer financial promotion, the firm, must take reasonable steps to establish that the retail client is: certified as a 'high net worth investor', a 'sophisticated investor', 'restricted investor' or self-certified as a 'sophisticated investor'.

- **Appropriateness assessment**

The restricted mass market investment must be assessed as appropriate for a retail client before an application or order is processed. This is to ensure that retail clients are only able to invest in restricted mass market investments which they have the knowledge and experience to understand, particularly in relation to the risks.

Non-mass market investments (NMMI) (to be in place for 1 February 2023)

- **Advice and Preliminary assessment of suitability**

Where a firm communicates any promotion of a non-mass market investment in the context of advice, a preliminary assessment of suitability must be undertaken before promotion of the non-mass market investment is made to or directed at clients. The firm must take reasonable steps to acquaint itself with the client's profile and objectives in order to ascertain whether the NMMI is likely to be suitable for that client. The firm should not promote the NMMI to the client if it does not consider it to be suitable for that client.

- **Personalised risk warning**

Before communicating the financial promotion, the firm must obtain the retail client's full name and then communicate the following personalised risk warning:

[Client name], this is a high-risk investment. How would you feel if you lost the money you're about to invest? Take 2 mins to learn more.

The firm must then request whether the retail client would like to leave the investment journey or continue to receive the offer.

- **Cooling off period**

A 24-hour cooling off period is introduced before the communication of the financial promotion. The firm must then request whether the retail client would like to leave the investment journey or continue to receive the offer. In the intervening period, the firm is allowed to carry out activities such as KYC/AML checks, providing personalised risk warnings, client categorisation and appropriateness assessment.

Preparing for the new rules

Firms who distribute or approve financial promotions for high-risk investments will need to review customer journeys to ensure they are in line with the new rules.

The new risk warnings need to be in place by 1 December 2022, and all the other requirements need to be in place by 1 February 2023.