

Transcript - Early oversight webinar on FinProms - 16 November, 2022.

Maha El Dimachki:

Good afternoon everyone and welcome to our first in a series of webinars that we are bringing to you from our Early and High Growth Oversight Department at the FCA. I'm Maha El Dimachki and I am the Head of Early and High Growth Oversight, which is a recently established department at the FCA.

I'm joined today by my colleagues, Michelle O'Bryan, Cara Bloomfield and Anoop Bhandari. Today, you'll hear from us on why we're holding these webinars, what Early and High Growth Oversight is and why financial promotions are important. Now, I'm delighted to see that around a thousand of you have signed up to this webinar, have registered to attend this webinar and I think this response is indicative of the need for these types of engagements. And so we hope you'll find it helpful. And as I said, it's the first in a series of webinars, so we're keen to hear from you on whether there are other topics that newly authorized and scaling firms would like to hear about.

There will be a short survey at the end for you to complete. It is a short one and this is a place where you can make suggestions on further webinar topics. We'd really appreciate your feedback for us to ensure that we're actually bringing effective webinars to you. We also have the interactive element of the webinar today. We'll respond to some of the questions on your mind. Before we begin, there are some housekeeping rules and points I'd like to observe and these are in the sidebar, but I'll quickly just mention them.

The online broadcast can be affected by your local broadband connectivity issues, technical issues may come up. So, if you do experience problems, if you can try refreshing your browser or leaving the meeting and rejoining. You can send your questions and comments through the question feature at any point during the event and we will try to answer as many questions as possible and those that are relevant to the discussion today. Just for your awareness, comments in the chat bar are public.

I should also say a little on what's in scope and out of scope for today's webinar, just to set expectations. We received some pre-submitted general queries related to topics outside of financial promotions. To make sure you get the most out of this webinar, we'll be focusing on answering questions related to financial promotions and to Early and High Growth Oversight. But for general queries on topics outside of that, for example, we received a lot of questions on consumer duty. If I could refer you to our website, which has lots of information on there.

But also, the consumer duty in particular, because I do know it's topical, we ran some webinars on specific sectors around the consumer duty topic in October and recently this year. I'd encourage you to access the links on those webinars and you can catch the broadcast on demand. We also saw some interest from all of you on ESG, environment, social and governance as a topic. So, depending on your feedback today, we may dedicate to webinar to ESG.

We won't necessarily answer any questions in relation to ESG on this webinar, but look out for our events page on our website for further information. Reg Round-up also, we'll touch on forthcoming webinars. So, if we can move to the next slide, what I would like to start by is to set out some of the context on why we are running these webinars and what we'd like you to get out of it.

In October 2021, nearly a year ago, we launched Early and High Growth Oversight pilot for newly authorized firms. We had just over 30 firms in the pilot. We closely engaged with all of these firms, these newly authorized firms and it was a regular engagement as they started their regulatory journey. We found a number of themes emerging within firms in our pilot and we worked with these firms to address some of these themes and what they were experiencing.

So fast forward a year now, we are working with around 200 firms and we have committed publicly to grow the program to 300 by the end of this financial year. We will share some of the insights we observed and continue to observe as we expand Early and High Growth Oversight.

We also hope that our presentation will bring to life how Early and High Growth Oversight actually operates. If you happen to be part of it or part of future phases of the program, you'll have a better understanding of what to expect and how we focus our interaction with you. Now, obviously I mentioned the themes. One of the key themes that emerged in the pilot and with our work at the moment is financial promotions. So we could continue to see that as a theme now as well.

I'd like to take a moment to just pause and reflect on the current state of the economy and what this means for consumers and also for firms. As you all know, we live in exceptionally challenging times and challenging economic environments. We know that millions of consumers are facing increasing pressure from the rising cost of living. Now, according to our financial lives survey, almost 8 million adults in the UK say that they are heavily burdened by their domestic bills and credit commitments.

We're seeing headline inflation rates 10% and rising and we're expecting to see more households being financially squeezed. Actually our financial lives survey also found around a quarter of the population have low financial resilience. This figure is likely in our opinion, to increase over the coming months with the real potential of some consumers needing to borrow in order just to make ends meet. What does this have to do with financial promotions?

Well, financial promotions are where consumers can be impacted because they use these adverts to make decisions relating to their finances and it comes at a time where millions of consumer household budgets are stretched and impacted by volatility.

And so never more so than in today's environment, is there an increased importance placed on firms getting it right when it comes to financial promotions. We feel that this webinar is quite timely as well. We want to put a spotlight on financial promotions. In a relevant way to your firm, to the economy, to consumers, we want to share our work with you in Early and High Growth Oversight and how we can help you to prepare for future regulatory engagement with this program if you happen to be part of it in the future.

We will include taking you through some helpful examples, hopefully helpful examples of financial promotions as we've seen them actually in our work and Early and High Growth Oversight to date, but also across the FCA. As you start out on your regulatory journey or in fact, whatever stage you are in your regulatory journey, you could be thinking about how these issues impact your own financial promotions. With that, we'll get into the meat of the topic and we'll start with Early and High Growth Oversight. I'm going to hand over to Michelle O'Bryan, my colleague, to take us through what Early and High Growth Oversight is.

Michelle O'Bryan:

Thank you Maha. I'm one of the three managers within Early and High Growth Oversight and I am delighted to be speaking to you this afternoon. By way of

background to the department, the Kalifa Review recommended that the FCA implement a scale box providing regulatory support to firms in their growth phase.

We also made a commitment to the industry to provide support to newly authorized firms. So Early and High Growth Oversight helps us deliver on both of our commitments to support firms as they start and as they scale. In addition, we anticipate many FinTech and innovative firms will benefit from this program also. For example, many FinTech and newly authorized firms may not have the same resources as many established firms to engage with and understand regulation. Traditionally, more established firms will have higher levels of engagement with the regulator. So it's about leveling up such an engagement.

A key objective for this program is to set and test higher standards and also to improve firm experience engaging with us and meeting their regulatory obligations. It ties in very nicely with our business plan objectives because it will help us achieve our key areas of commitment in that plan, which are reducing and preventing serious harm, setting and testing higher standards and promoting competition and positive change.

We know that firms are most likely to pivot their business model in the first year. This can have a knock on effect on their regulatory obligations. It's a clear case for Early and High Growth Oversight to provide additional regulatory support for firms as they start out. As you know, we're becoming more innovative and data-led regulator. Everything we do depends on the information that we collect and how we use it.

While in Early and High Growth Oversight, one of our key tools is to request additional information where appropriate from firms more regularly. It allows us to track how these firms are doing as they start out. It also enables us to focus our conversation with these firms on areas that supervisory support is most needed.

We tested this approach in our Early Oversight pilot that we launched last year. Following the pilot conclusion in March this year, we published some of the observations that we made where firms needed to give some of attention to and included of course financial promotions. It's why we're here today. We needed to ensure that firms understood their financial promotion rules, but also how they displayed information on their website. Business model changes, this was another area where we needed to identify when firms were changing their business model and impacts on the regulatory requirements as accordingly.

Regulatory submissions. We also supported firms to make timely and quality regulatory submissions and reports. We also captured observations around the use of regulatory permissions, how firms were tracking against their financial projections and their engagement with portfolio letters.

You can read all about that on our website. At the conclusion of the pilot, we surveyed the firms and I'm very pleased to announce that 87% of the pilot firms rated their overall experience within Early Oversight. As satisfied or very satisfied, we also got some very helpful feedback on how we can improve our processes and the firm experience. We are committed to continuing to develop in that area. We've been sharing these findings more broadly and we are getting a lot of interest. As we expand the number of firms in the program, we will continue to engage and share our findings and observations with the industry to continue to drive improvements.

In fact, we plan to share our observations since expanding Early and High Growth Oversight to a greater number of firms at one of our forthcoming webinars. As Maha has already indicated, if you keep an eye out for our events page and a regulatory roundup, you'll be able to see the forthcoming dates on those.

Whilst we did promise not to go into depth on consumer duty, I did just want to say a few words on it. The consumer duty is a shift to a more outcomes based approach. It

is the cornerstone of the three year strategy, a key element of our work to set and test higher standards between now and the year 2025.

This is also one of Early Oversight's objectives. So there is a natural synergy between how these two initiatives complement each other. The duty is even more important in today's context as consumers face increasing pressures as the state of the economy continue to unfold. This crisis serves to underline the pressing need for high standards across consumer protections.

At Early Oversight, we've been asked how the consumer duty will affect newly authorized firm. Our response is simple, in that it affects newly authorized firms in the same way as it applies to all firms. We are keen to see that firms focus on meeting their customer needs in everything that they do.

It should mean that people receive communications, that they can understand, products and services that meet their needs and offer fair value and that they get customer support they need when they need it. Where firms are thinking about these things when they start out, it will better inform their culture, shape their processes and help to embed better consumer outcomes right from the start.

I hope that that has set some helpful context of why we're holding this webinar. I'm actually going to pass now to my colleague Anoop Bhandari to share some of the financial promotion examples that we are seeing within Early and High Growth Oversight. Anoop.

Anoop Bhandari:

Thanks very much, Michelle. Good afternoon everyone. I'm Anoop Bhandari and I'm a supervisor in the Early and High Growth Oversight team. I've worked with firms from various sectors such as mortgage intermediaries, financial advisors, peer to peer lenders, debt collection firms and payments firms, which gives you an idea of the breadth of the work we cover.

I want to spend a few minutes to give you a flavor of how we work in the Early and High Growth Oversight team and to explain what the firm journey looks like when coming into this program and how we consider a firm's financial promotions. Firms which are approved at the gateway and so are newly authorized are enrolled into the Early and High Growth Oversight program.

The work we do includes reviewing business models, financial projections and any other relevant information. This is mainly drawn from the information provided as part of the authorization process. This gives us an insight of what activities the business will be doing, how it intends to deliver its products and services and what distribution channels it'll be using as well as who is involved with the business.

We review a number of aspects related to the firm's business which you can see some of those listed on the slide. Our review includes a firm's presence on the web including their website. A firm's web website is a great way for us to gain an understanding of how it is presenting itself to potential clients. This is often the start of the customer journey and getting this right can lead to good outcomes. Getting this wrong can lead to harm.

For example, customers being led into products or services which aren't right for them or they would not have selected particular products if they had the right information from the beginning. This is key.

The website is the shop window to the firm and this is how consumers can see and understand the firm's offering. We ask ourselves, does it look right? We will look to see if a firm's offerings match with their permissions. Are they authorized for all the things that they're offering? This seems obvious, but as you'll see from some of the examples, we're going to reflect on that some firms do get this wrong.

We look to see if they are balanced, clear, fair and not misleading and we want to understand if they are offering any non-regulated services. You'll see that for some of the examples we will share, you don't need to be a financial promotions expert to spot some of the issues. There are some obvious signs you can easily pick up on. Most firms want to represent themselves and their products and services clearly and fairly to potential clients and we see lots of great ways in which this is being done. But for some, they're not getting it right to different degrees.

In some instances, we notice small but important changes are needed and in other instances, our observations are far more serious and this can lead to poor outcomes for consumers. It's important to remember that we hold both firms and their senior management to account for financial promotions. But what we often hear when we need to feedback serious concerns is that the firms have the content checked by their compliance function or third party compliance consultant.

Whilst these functions add value, the sorts of concerns we identify are often fairly obvious and can reflect on a business in such a way as to potentially damage its reputation or cause harm to consumers. We expect firms, as a whole, to do a better job in checking their financial promotions. Apart from formal compliance checks, we would encourage firms senior management to take a look at their own website and consider how their business is being presented.

When financial promotions are not fair, not clear or are misleading, this can result in consumer complaints such as misselling complaints and has consequences for firms and consumers. And this is also fundamental to the consumer duty referred to earlier. The duty raises standards from the current requirements. Where firms do not meet current expectations, therefore they will have yet more to do ahead of the duty coming in force next year.

In terms of consumer understanding, we want firms to provide consumers with the information they need at the right time and presented in a way that they can understand so they can make properly informed decisions about financial products and services and we expect firms to use testing and monitoring to make sure those communications are doing what they were intended to and deliver good consumer outcomes.

Firms will need to consider the target market for their products and services. Firms should be offering customers products that meet their needs, characteristics and objectives. And taking steps to ensure products are distributed to customers in the target market rather than pushing products to customers for whom they weren't designed.

These insights may help you identify the potential pitfalls when creating or reviewing financial promotions. On the next slide, you'll see the broad issues we saw in a number of the firms we engaged with. We've given you generalized examples rather than discussing specific facts, but you'll be able to clearly understand the types of issues arising that we address with firms.

Turn to some of the examples we've seen. Advertising unsubstantiated high investment returns, we find firms advertising high rates of investment return with ranges into the double percentage figures and sometimes towards the upper end. When we ask firms to substantiate the advertised rates or to provide evidence to support them, the sorts of responses we receive can be along the lines of, and I am paraphrasing, "This is possible for certain scenarios but we have not actually realized such returns for clients yet." Or, "We now realize after the FCA has raised this with us, these advertised returns may be misleading."

And implying products services are FCA approved. When firms become authorized, they are required to use a specific form of regulatory status disclosure as set out in

our rules. This ensures that regulatory statuses are uniform, easily understood by the public and are not used to promote firm's products and services.

However, we have seen firms publishing statements on their website suggesting the FCA endorsed their offering. Slogans such as FCA approved next to service offerings have appeared. Such statements can give an inappropriate impression that the FCA has given approval to the product or service being promoted and gives false comfort to the audience.

And then turning to inaccurate promotion of products or services. We've seen an example was where a firm had stated that retail investors could liquidate their investment before the end of the term of the investment. When we asked the firm to talk us about how this worked for investors, we were told that was not in fact possible. This could to harm where consumers may have parted with their money on the understanding that the product or service would work in a particular way when that was not in fact the case, potentially causing them a loss.

Given the context of the economic environment discussed earlier, you can see why from a regulator's perspective this type of misleading communication could have an even greater impact than before.

And then advertising regulated activities for which firms are not authorized. We have encountered occasional instances in which firms promote regulated services for which they do not in fact have the permission to provide. This might include for example, promoting services such as investment advice in relation to investment types which are not covered by the firm's permission.

This is an observation that we are also increasingly finding in our current work. As an example, firms state they offer mortgage and financial advice services, yet they do not have such permissions so they've had to change their website. Another scenario is where a firm was not a bank and was stating that it offers current accounts. This indicates similarities that exist between the services offered by e-money firms and those of a traditional bank. Using phrases like current account could prove misleading to consumers and potentially lead them to assume that the firm is an authorized banking institution with the protection that is associated with being an authorized bank, for example, FSCS guaranteed.

Our Dear CEO letter to e-money firms identified that we are still concerned that such firms are not adequately disclosing the differences in protections between their services and traditional banking. In particular, the FSCS protection does not apply.

In one example, a firm was offering a current account which was an e-money account without also giving fair and prominent indication of any risks, i.e. the lack of FSCS protection. Leaving out this fact could mean the information given to customers is insufficient or even misleading. When we challenged the firm, they agreed that the phrase, current account, had the potential to confuse customers or lead them to make incorrect assumptions and they decided to remove the wording.

This all comes back to the consumer duty of timely and clear information, that customers can understand so they can make informed financial decisions and offering customers products that meet their needs rather than products that aren't suitable or needed. Thank you. I'll now pass over to my colleague, Cara.

Cara Bloomfield:

Thank you Anoop, and good afternoon everybody. I am Cara Bloomfield, I manage the financial promotions team within the Financial Promotions and Enforcement Task Force. I just want to start by saying it's a real great pleasure to be able to speak to you today and I hope what I'm about to cover will be used to the vast majority of you.

To outline the session. I thought it would be useful to recap on the definition and scope of financial promotions. How do we define a financial promotion? Well, we define it as any invitation or inducement to engage in investment activity communicated by a person in the course of business. But what does this all mean? Well, an inducement or invitation is generally considered to be everything from asking or persuading a consumer to engage in some form of financial activity. This includes claims management activity. Investment activity is broad, so using your platform's product services for investing securities. Then the course of business.

The course of business test refers to having a commercial interest directly or indirectly. Who does it apply to? Whilst some exemptions do apply, all forms of advertising and communication are capable of being a financial promotion due to the sheer breadth of the definition of investment activity.

The regime applies to just about all financial services products. You might ask why it is regulated so heavily. As Maha mentioned at the beginning, financial services play a critical role in the lives of everybody in the UK. At a time where the cost of living crisis continues to impact heavily on consumers, it has never been more important for consumers to get the right information they need from good quality marketing.

Did you know that 80% of consumer decision-making is based on emotion? This is a particular risk in financial services because of the complex and often long-term nature of financial products. It is more important than ever that financial promotions are a responsible and clear gateway for consumers to enter into an inappropriate financial product.

Next slide please. As Anoop mentioned, financial promotions are the shop window for consumers when they are thinking about purchasing or investing in financial products. And with the rise in digital services, it has made it faster and easier than ever before to engage in financial services.

We need to ensure that consumers are provided with clear, fair and not misleading content to enable them to make an informed decision before parting with their money. To help achieve this, we are getting faster at finding potential breaches and shutting down misleading promotions. Our focus with authorized firms is making sure they sell products and services that are suitable for the consumers that are going to buy them. As such, there is a public metric which we hold ourselves to account and that is to increase the number of interventions on non-compliant financial promotions by authorized firms.

We expect firms to take ownership of their promotional material and to see the standards rise on all channels used to promote. This is especially important where social media is used, where we have seen a rise in influences being used to promote activity and at times, firms losing control of the content resulting in breaches. We are all retail consumers in some shape or form and we know how much we rely on marketing information to make decisions about the type of product or service that best suits our needs.

We've seen some high profile examples of the material impact misleading financial promotions has had directly on consumers or investments investors who've been mis-sold products and suffers significant financial losses. The need to have a robust regime has never been more necessary.

Next slide please. I thought I would cover our approach to supervising financial promotions and just cover our purpose. In line with our public commitments set out in the business plan, the aim of our financial promotions regime is to actively reduce the potential for consumer harm, financial losses and/or misselling. But how do we achieve this in practice?

My team monitor the promotional activity across all sectors and all types of media on a proactive basis and respond to the many internal and external referrals we receive each day. We engage with the industry trade bodies, other regulators and platforms to work towards raising industry standards and reinforcing accountability of firms and their senior management.

An example of this has been us this year in a Dear CEO letter earlier this year to the credit sector that I will touch on later in the presentation. We have taken steps over the past year to be more assertive and adaptive in tackling harm. When we identify breaches of poor practice, we intervene swiftly against authorized firms that make the non-compliant financial promotions and also against unauthorized firms conducting activity that could lead to misselling and financial losses.

We have a range of regulatory tools available which I'll recover in more detail later in the presentation. But how do we measure our outcomes? We're trying to be more transparent about the outcomes we're seeking to achieve. As part of this, we now publish quarterly and annual data. To give an idea of the breadth of our work and outcomes we achieve and to provide you with an indication of how differently we are operating in 2021, we intervened by firms withdrawing or amending 563 promotions across different sectors with consumer lending as the sector with the highest proportion of cases.

We expect these numbers to increase in the coming years and enter the end of October, this year we have intervened over 5,000 times with firms needing to withdraw or amend their promotions. We've started to publish examples of good and poor practice using interactive case studies as a useful tool for the industry and some of which will be relevant to the firms here today. We're using data to tackle online fraud by web scraping a 100,000 newly registered URLs on a daily basis and requesting the shutdown of those scam sites.

Finally, we issue warnings on our website, which is a list of firms operating without permissions or running scams. And to the end of October this year, we have issued 1,053 warnings. Next slide please.

You will not be surprised to hear the line again that the overarching rule is financial promotions need to be fair, clear and not misleading. But there are several prescriptive rules and guidance across multiple source books which detail how this requirements should be met and impose additional requirements according to particular form, nature and content of the promotions.

When a firm develops new financial promotions, that firm will need to follow prescriptive rules depending on the sector within it operates. Let's look at that in a bit more detail. Next slide please.

What do you need to consider? Well, the first three I would highlight would be clarity, media and fairness. With clarity, how clear is the promotion? Is it understandable by your target audience? Are you using jargon? Media, our rules are media neutral. So whatever you are promoting on websites, paid for Google Ads and social media science, they must follow the same oversight. They need to be standalone compliant. For example, if a risk warning is required, it is no good having it on the checkout page.

It needs to appear on each financial promotion, whether that be a Google Ad, a landing page and at the checkout. The key really is for marketing and compliance to work together to find a marketing plan and robust approval process that enables your firm to fulfill the compliance requirements and post your media in a timely and compliant way.

As I've mentioned before, this can be a big failing. A good example of this was a case my team dealt with earlier this year where we had to engage with the firm to remove all their influencer content from Instagram.

Now, the reason for that was the influencer that had been chosen to promote the product was not appropriate. The firm also had to stop issuing any further financial promotions on social media sites until it has satisfied the FCA that it had the systems and controls in place. Another example was a member of a well known reality television program who was promoting a firm's investment services.

Now, although the influencer claimed to not have been paid and the principal firm had confirmed they did not pay the influencer, they still caused the communication to be made. And so we took action against the principal for that.

Fairness. Anoop's covered this but we quite often see it in my team is that the FCA authorization is endorsement. You must not do it. For example, we see a tick next to FCA authorized amongst the main webpages. Or the webpage referring to the firm being trusted because of FCA authorization. If the product isn't free, then say. Do not obscure or admit important information.

For the credit sector, a firm must not state or imply that credit is available regardless of the customer's financial circumstance if this is not the case. I think what's really important to note here is that those who operate under the appointed representative regime principles are responsible for the oversight of the promotions produced by its appointed representative. So we would engage with the principal firm regarding that.

Next slide please. The next three areas I would highlight for consideration would be risk, balance and prominence. Could there be escalating costs or interest? Could somebody lose their money? Is their FSCS cover, for example, claims management companies need to prominently include information about a consumer's right to make a claim for free.

For credit promotions, include a rate of interest or an amount relating to the cost of credit. It must then also include a representative example. Balance, promotions should always be balanced and present the downsides, the costs, the risks alongside the benefits. A consumer shouldn't have to seek out the important information.

Prominence always consider font sizes, color and placement. For example, a risk warning at the foot of a webpage would likely not be considered compliance. Equally, if text was obscure, transparent or hard to read, we would consider this a breach. APRs must be given no less prominence than any other matters. But also being aware when an APR is triggered, for example, when access to credit is restricted.

Next slide, please. Feedback we have received is that the language used for some of our tools can often be misunderstood. I thought it would be useful to share today how we might contact you, where there is evidence of firms may be in contravention or not meeting our standards and where we may use the powers under Part IV of FSMA to vary permissions or impose requirements on our own initiative.

These powers may be used to prevent or stop harm from becoming serious and we can require firms to examine their conduct and address that. But let me go into a bit more detail about the action we may take.

A letter we may write to you about the individual breaches requesting action. It is important to note that if you do receive communication by us, the FCA does not approve firm's financial promotions. It is up to individual firms to ensure that their promotions and their other customer communications are fully compliant. And if we do not comment on a particular advert or any aspect of it, that does not mean we don't consider it compliant.

If the issue is market wide or thematic, we may seek to issue a Dear CEO letter which will follow up with proactive monitoring to ensure compliance. For example, the letter

to credit lending sector where we found multiple failings across most if not all of the sector. This has resulted in over 4,000 promotions being amended and withdrawal since. In many cases, we will invite firms to apply for the imposition of requirements known as a VREQ.

We also have powers to impose requirements and vary permissions on our own initiative and these are known as OIREQs. There is also a tool called a Section 165, which is how we will formally request further information about the business.

We have what's called the banning power, the Section 137S which directs a firm to withdraw a promotion or advert. We might issue a Section 166. This tool is used to require a firm to appoint a skilled person to produce a report on specified matters or to appoint a skilled person directly.

Finally, if firms operate without permissions or run scams, we will issue public warnings and we will take down those pages. It's important to note that when we are liaising with you, we sometimes will combine the requirements and the directions. For example, you might receive a VREQ alongside a ban for example.

Our action may restrict the firm from using further promotions. We might put a restriction on dealing with assets. Our action may result in firms being transferred to enforcement for further investigation or threshold conditions to consider the ability of the firm to continue with the regulatory permissions it holds.

This isn't an exhaustive list of intervention powers but as I mentioned, this is most likely how the financial promotions team would communicate with you and we would do that alongside the supervision teams in the FCA.

That brings me to the end of my session. Thank you for listening and I do hope it was useful. As I mentioned at the start, we want to continue engaging with the industry to reinforce our expectations in this area, promote good practices around financial promotions. I look forward to moving into the Q&A session and I will leave it there and pass back to Maha.

Maha El Dimachki:

Thank you Cara. Thank you Anoop and thank you Michelle for sharing these slides and these insights. We will be taking questions from the audience now. And thank you to those who posted questions to us when registering.

And obviously, there was a lot of dialogue and questions in the sidebar during the webinar, so we'll aim to answer as many of those as possible within the time that we have. The one thing I'd like to say is there was a question on whether we would be sharing the content and certainly, the webinar is going to be available to you to listen to.

So that will be, I'm hoping within about a week or two, it will be available for you to listen to on demand. Why don't we start with, maybe I'll take a question that was pre-submitted to start with and Cara, this question I think I'll direct to you. Can a customer request the direct offer financial promotion at the point of accounts creation and can the 24 hours start at that point? Cara?

Cara Bloomfield:

Thanks Maha. For something to be a direct offer financial promotion, it must both contain an offer invitation and specify the manner of response or include a form by which any response may be made.

This will look different for different firms, but a particular promotion for an investment that also enables the consumer to place their money in without needing to consider another communication is likely to be a direct offer financial promotion.

Again, what that trigger looks like when the consumer requests to see this direct offer financial promotion will look different for different firms. For example, whether it's a button to create an account or something else. The 24 hours must start when the consumer requests to view the direct offer financial promotion.

In the policy statement 2210, we include a stylized visual example of how firms could apply the rules in their customer journey. And we expect most firms will implement the direct offer financial promotion rule as part of the consumer onboarding journey alongside any other checks the firm may need to complete such as the anti-money laundering and know your customer.

Maha El Dimachki:

Thank you. Fantastic. There was also a question that came through previously around crypto assets and given how topical crypto assets is, I think it's worth responding to that. Cara, again one for you but perhaps I'm happy to also jump in here. Are there any updates on the proposed crypto registered firms financial promotions regime?

How will this impact financial promotions involving crypto assets? Cara, do you want to maybe talk to that and if there's anything else I can add, I certainly will.

Cara Bloomfield:

Yeah, I can take that. We are waiting imminently for more information but for now in January of this year we consulted on rules for promotions of crypto assets. We are unable to make final rules until the relevant legislation bringing in crypto assets within the financial promotions regime is made.

We still consider crypto assets when used as speculative investments to be high risk and recent events including the sharp falling the price of crypto assets further highlights the riskiness of these products. We will publish our final rules for crypto asset promotions once the relevant legislation has been made. Subject to any changes in circumstances, we expect to take in consistent approach to crypto assets to that taken for other high risk investments.

Maha El Dimachki:

Great, thank you. There are a couple of questions. Anoop, I'll come to you with those they came through on the side chat. One is... Sorry, let me just go back. Actually the one I want to put to you is the one around current account and e-money firms.

Let me just go back to, I think it came from John Burns in the sidebar. Apologies. Is the message that EMIs cannot use the term current account or that if they do so, they must specifically make clear that they are not covered by FSCS? Anoop, do you want to talk to that? I think you mentioned that in your-

Anoop Bhandari:

Yeah, I did. Thanks for that and thanks for the question. It's the latter part of that. It's about the clarity around the protections and ensuring that that is displayed prominently next to the wording on the websites. It's about making sure that everything is very clear to consumers and what that actually means for them.

Maha El Dimachki:

Great, thank you. Michelle, I'll come to you with a couple of questions on one pre-submitted and a couple that have actually come through. How does the FCA plan to supervise firms with limited permissions? That's the first one and I'll mention the other two after you've answered that one for us. Michelle, over to you.

Michelle O'Bryan:

Thanks Maha. We do see a lot of firms in the consumer credit space that would have limited permissions. Firms with limited permissions are still carrying out regulated activities and are authorized and regulated by the FCA.

Coming into Early and High Growth Oversight, we will not treat those firms any differently than any other authorized firms that we will be looking at. I think it is fair to say though we proactively engage with firms to understand their business models and we discuss things with firms as they're starting out, their regulatory journey and the aspects of their business and how that's all coming along. So we want to help firms understand their regulatory obligations but we obviously clearly acknowledge that there's a huge element of unregulated side of their business and we know that that will impact on the regulated side and vice versa.

Firms that have limited permissions, they won't receive an inferior level of regulatory engagement by our team, just because they hold limited permissions. We will still go through with them and make sure that they understand their obligations and that they meet those obligations. I should just put out there, so firms with limited permissions that do enter into Early and High Growth Oversight will still be required to obviously respond to our requests, meet their regulatory obligation and engage with us in accordance with Principal 11, which will be exactly the same for all other authorized firms.

Maha El Dimachki:

Thanks Michelle. I think follow up questions from that were around firms that are acting outside of permissions that they have or how quickly do we act when there are kind of misleading financial promotions. I think maybe a quick response on that, those from you would be great.

Michelle O'Bryan:

We can't really comment overall in relation to questions about unauthorized business or web take downs because that is actually another team within the FCA. But what I can say that any notification that does come to our team, so Early and High Growth Oversight, we will act as soon as possible on those and we will engage with firms where that does come to our attention.

Maha El Dimachki:

The idea is that we will take appropriate action as quickly as possible if a firm's acting outside of permissions or there's misleading financial promotions.

Michelle O'Bryan:

Exactly.

Maha El Dimachki:

Because obviously that does lead to harm. There are quite a lot of questions coming through and it's difficult actually to keep up. Now, there were quite a few questions on crypto, which we've answered.

Let me take another question actually from the list of questions that have come through. Cara, I'll come to you again. Is there a recommended way to present price from information for newly launched products and services, where we do not have historical customer data to substantiate the price?

Cara Bloomfield:

Thanks Maha. There are specific rules that have been introduced in relation to pricing information. For example, ICOBS home insurance and motor insurance pricing. Now, these types of requirements are not specifically related to financial promotions.

We would suggest firms ensure they review any relevant sections of their applicable section in the handbook and be mindful of the price and value outcome in the new consumer duty. I would just remind firms that any pricing claims should be capable of substantiation. If a firm is in any doubt as to whether pricing claims may not meet our clear, fair or not misleading requirements, then they should really exercise caution.

Maha El Dimachki:

Great, thank you. There are quite a few questions coming through on different financial promotions via different social media platforms. Cara, I'll probably turn that to you quickly, but it's fair to say that the platform is neutral as far as the rules are concerned. But why don't I ask you to comment further on that?

Cara Bloomfield:

Thanks Maha. Just checking if I'm off mute. Yes, social media platforms, I've seen the questions that have been coming in on the sidebar. Now we have mentioned our rules are media neutral and that doesn't matter whether that is Instagram, Facebook, Google Ads, TikTok, doesn't matter where it is, Popup. Now, what I have seen mentioned in the sidebar is social media guidance.

We recognize that when that social media guidance was created, social media has moved on since then and we are committed to updating that. Now, what I would say is I don't know the timeframe for doing it, but it is a policy piece of work. So it wouldn't necessarily sit within my team. But we are committed to doing it. I haven't got a time scale but the principles of that document wouldn't change. It would be merely updating it based on I think just new ways of advertising, new ways of marketing.

This comes back to the example I used earlier in the presentation around a firm using an influencer on Instagram and the influencer not being appropriate for the target audience and us taking action against that. Now, as an example, I know the social media guidance doesn't look into influencers as an example. So it is recognized that that needs to be updated, it is going to be updated. The principles will still apply if you've done an awful lot of work in relation to that already. But that is coming at some point in the future. Thanks Maha.

Maha El Dimachki:

Great, thank you. How are we going for time? I think maybe we can take maybe one more question and Cara, maybe I'll come to you with this as well. Do we need capital at risk warning in case of a mean posted for organic awareness question?

Cara Bloomfield:

This is very specific and I'm going to quote the sourcebook. COBS 4.2.1 R requires firms to ensure their financial promotions are fair, clear and not misleading. You've heard that many, many times today. However, an extension of that is COBS 4.2.4 G where firms should ensure that a FIM prom for a product or service that places a client's capital at risk makes this clear.

I've mentioned many times we're media neutral in relation to the requirements. So therefore, the meme can be considered a financial promotion. For example, if it contains an invitation or inducement to engage in investment activity, then it should

meet the requirements. I've mentioned social media guidance as well before. That is going to be updated but the principles will still apply.

But what I would say is firms should also be mindful of whether they are promoting high risk investment products. The reason I say that is because of the recent policy statement for strengthening the financial promotion rules for high risk investments and there are prescriptive rules in relation to risk warning requirements within that. Thank you.

Maha El Dimachki:

Great, thank you. I think we'll take one more question. Again, quite a lot coming through and quite a lot already submitted. Can I come to Anoop on this one? Are issues challenges common across all sectors? What are the key differences? Maybe Anoop if you could quickly answer that one for us, that would be great.

Anoop Bhandari:

So I think we saw earlier in the presentation that we've noticed some firms not or displaying product services for which they're not authorized. So I think that's something, an area that people should pay attention to.

It's ensuring that that is clear and ensuring that we don't use the FCA logo as indicating as approval for the products and services that are being offered. But we do see a variety of different types of issues. We're hoping to share more of that as we go forward.

But I think I've been through a few of those through the presentation in that it's ensuring that these are fair, clear and not misleading and making sure that consumers do understand the offering that is being made available to them.

Maha El Dimachki:

Thank you. Cara, is there anything you want to add to that or...

Cara Bloomfield:

No, I don't think so. One thing I did want to mention actually, because we're running out of time is in relation to social media influences and that is that they are obviously going to be used by firms and that is fine.

But what I would say is the firms that... You need to gain control. You need to gain control of how the influencer will use the contents for the marketing purposes when they place it on those websites, those social media sites because quite often, the problem that we have is they've lost control over what the person has said.

So it might not have been in the script, but it has come out in other ways. I think social media for me is a big issue. Within my team and what we do and what we see and how we are dealing with some of the breaches, but just because it's on social media, just because it only pops up for 24 hours does not mean we don't have access to it. We are web scraping these platforms and we do have access to view the past promotions. Please do consider that when you are going to use an influencer on those platforms in the future.

Maha El Dimachki:

Great. I think we've run out of time. I've also noticed that there's a few comments on buy now, pay later. I'm sorry we didn't get to that point, but there is information on our website around consumer credits, Dear CEO letters, et cetera that could hopefully help with that.

We will be running additional webinars. Please make sure that you fill in our survey and tell us what topics you'd like us to focus on. But I think we've come to the end of the webinar. Thank you so much for attending. We look forward to hearing your feedback and I certainly hope to see you all at the next webinar. Thank you so much.