

**FINANCIAL PROMOTIONS AND HIGH-RISK INVESTMENTS (INCENTIVES)  
INSTRUMENT 2024**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the powers and related provisions in or under the following sections of the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
  - (2) section 137D (FCA general rules: product intervention);
  - (3) section 137R (Financial promotion rules);
  - (4) section 137T (General supplementary powers); and
  - (5) section 139A (Power of the FCA to give guidance).
- B. The rule-making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on 2 April 2024.

**Amendments to the Handbook**

- D. The Conduct of Business sourcebook (COBS) is amended in accordance with the Annex to this instrument.

**Citation**

- E. This instrument may be cited as the Financial Promotions and High-Risk Investments (Incentives) Instrument 2024.

By order of the Board  
28 March 2024

## Annex

## Amendments to the Conduct of Business sourcebook (COBS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

#### 4 Communicating with clients, including financial promotions

...

##### 4.12A Promotion of restricted mass market investments

Purpose

4.12A.1 G The *rules* in this section:

- (1) require that any *financial promotion* relating to a *restricted mass market investment*:
  - (a) includes a prescribed form of risk warning;
  - (b) ~~does not include any form of incentive to invest; and~~
- (2) restrict the *communication* and *approval* of *direct offer financial promotions* in relation to *restricted mass market investments* except where certain conditions are satisfied; and
- (3) require that a *financial promotion* which relates to a *restricted mass market investment* does not offer to any *retail client* any form of incentive. The purpose of this *rule* (COBS 4.12A.7R) is to ensure that *retail clients* are not persuaded or incited to *engage in investment activity* relating to a *restricted mass market investment* other than by reference to the features of the investment activity that is the subject of the *financial promotion*.

...

Restrictions on monetary and non-monetary incentives

- 4.12A.7 R
- (1) A *firm* must not *communicate* or *approve* a *financial promotion* which relates to a *restricted mass market investment* and which offers to a *retail client* any monetary or non-monetary incentive ~~to invest~~.
  - (2) The *rule* in (1) does not apply where the conditions in paragraph (3) or (4) are satisfied.
  - (3) ...
  - (4) The conditions are that the incentive is:

- (a) offered for the exclusive purpose of encouraging a *retail client* to transfer their existing holding of one or more *restricted mass market investments* from an existing arrangement with one *person* to a different arrangement with another *person*; and
- (b) not structured in such a way as to encourage further investment in any *restricted mass market investment*.
- 4.12A.8 G For the purposes of *COBS* 4.12A.7R, monetary and non-monetary incentives include, but are not limited to:
- (1) offering bonuses when investing in a *restricted mass market investment* ~~for the first time~~;
- ...
- (4) offering discounts ~~when investing a particular amount~~ or rebates on fees paid that are linked to volumes of trades made in *restricted mass market investments*;
- ...
- 4.12A.9 G (1) Information and research tools do not constitute non-monetary incentives.
- (2) Lower fees or charges not linked to volumes of trades, made available to all *retail clients*, do not constitute a monetary incentive.
- (3) The effect of *COBS* 4.12A.7R(4) is that a *financial promotion* may offer an incentive to transfer an existing holding of a *restricted mass market investment* (for example, from one platform to another). However, the incentive must relate solely to the transfer and must not be used to encourage *retail clients* to otherwise *engage in investment activity* in relation to *restricted mass market investments*.
- 4.12A.9 G Subject to *COBS* 4.12A.8G and *COBS* 4.12A.9G, the following factors are otherwise relevant in determining whether a benefit is an incentive:
- A
- (1) A benefit which is intrinsically connected with the *investment or investment activity* that is the subject of the *financial promotion* is unlikely to constitute an incentive – for example, voting rights which are carried by a share. However, a benefit which is entirely separable from the *investment or investment activity* that is the subject of the *financial promotion* is likely to be an incentive.
- (2) A benefit which is only available for a fixed period of time, or is contingent upon investing in a *restricted mass market investment* in the future, is likely to constitute an incentive. This would not

include, for example, a benefit which is offered in connection with a specified event, such as the first close of an investment.

- (3) A benefit which is only available to *retail clients* who invest through a particular medium is likely to constitute an incentive – for example, a benefit which is only offered to *retail clients* who invest via a social media link.

4.12A.9 B G (1) COBS 4.12A.7R applies irrespective of the nature of the investment activity. This means that the *rule* applies not only in relation to incentives to *buy restricted mass market investments* but also, for example, to incentives to enter into agreements for the purposes of transacting in *restricted mass market investments*.

- (2) The rationale for offering the incentive is immaterial. This means that the *rule* applies to incentives which are intended, for example, to encourage *retail clients* to make investments ahead of the end of the tax year.

...

**4.12B Promotion of non-mass market investments**

...

Purpose and overview of the rules

4.12B.5 G ...

- (5) ...

(5A) COBS 4.12B.17R requires that a *financial promotion* which relates to a *non-mass market investment* does not offer to any *retail client* any form of incentive. The purpose of this *rule* is to ensure that *retail clients* are not persuaded or incited to *engage in investment activity* relating to a *non-mass market investment* other than by reference to the features of the investment activity that is the subject of the *financial promotion*.

...

...

Restrictions on monetary and non-monetary incentives

4.12B.17 R (1) A *firm* must not *communicate* or *approve* a *financial promotion* which relates to a *non-mass market investment* and which offers to a *retail client* any monetary or non-monetary incentive to ~~invest~~.

- (2) ...

- (3) The rule in (1) does not apply where the incentive is:
- (a) offered for the exclusive purpose of encouraging a retail client to transfer their existing holding of one or more non-mass market investments from an existing arrangement with one person to a different arrangement with another person; and
- (b) not structured in such a way as to encourage further investment in any non-mass market investment.

4.12B.18 G For the purposes of COBS 4.12B.17R monetary and non-monetary incentives include, but are not limited to:

- (1) offering bonuses when investing in a *non-mass market investment* ~~for the first time~~;
- ...
- (4) offering discounts ~~when investing a particular amount~~ or rebates on fees paid that are linked to volumes of trades made in non-mass market investments;
- ...

4.12B.19 G (1) Information and research tools do not constitute non-monetary incentives.

(2) Lower fees or charges not linked to volumes of trades, made available to all retail clients, do not constitute a monetary incentive.

(3) The effect of COBS 4.12B.17R(3) is that a financial promotion may offer an incentive to transfer an existing holding of a non-mass market investment (for example, from one platform to another). However, the incentive must relate solely to the transfer and must not be used to encourage retail clients to otherwise engage in investment activity in relation to non-mass market investments.

4.12B.19 G Subject to COBS 4.12B.18G and COBS 4.12B.19G, the following factors are relevant in determining whether a benefit is an incentive:

A

- (1) A benefit which is intrinsically connected with the investment or investment activity that is the subject of the financial promotion is unlikely to constitute an incentive – for example, voting rights which are carried by a share. However, a benefit which is entirely separable from the investment or investment activity that is the subject of the financial promotion is likely to be an incentive.
- (2) A benefit which is only available for a fixed period of time, or is contingent upon investing in a non-mass market investment in the future, is likely to constitute an incentive. This would not include,

for example, a benefit which is offered in connection with a specified event such as the first close of an investment.

- (3) A benefit which is only available to *retail clients* who invest through a particular medium is likely to constitute an incentive – for example, a benefit which is only offered to *retail clients* who invest via a social media link.

4.12B.19 G  
B

- (1) COBS 4.12B.17R applies irrespective of the nature of the investment activity. This means that the *rule* applies not only in relation to incentives to *buy non-mass market investments* but also, for example, to incentives to enter into agreements for the purposes of transacting in *non-mass market investments*.

- (2) The rationale for offering the incentive is immaterial. This means that the *rule* applies to incentives which are intended, for example, to encourage *retail clients* to make investments ahead of the end of the tax year.

...