# 14

# FINANCIAL PRODUCTS

## Background

Marketers must have regard to the financial promotion restriction in Section 21 of the Financial Services and Markets Act 2000 and in the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (as amended), as reflected in the rules and guidance issued and enforced by the Financial Conduct Authority (FCA). The scope of that legislation, rules and guidance extends to marketing communications for: investments and investment advice; deposit taking (for example, banking); home finance transactions (regulated mortgages, home purchase plans and home finance plans); general insurance and pure protection policies (for example, term assurance). The FCA is responsible for the regulation of first-charge mortgage lending and selling, as well as certain secured loans and the activities of insurance intermediaries. The FCA does not provide pre-publication advice on proposed financial marketing communications; technical guidance is available on specific matters or rule interpretation only. For more information, contact the FCA (see http://www.fca.org.uk).

The FCA also regulates other consumer loans under FSMA, the Consumer Credit Act 1974 (as amended), the Consumer Credit Act 2006 and the FCA's Consumer Credit sourcebook (CONC). CONC Chapter 3 requires financial promotions concerning consumer credit, among other more detailed requirements, to be "clear, fair and not misleading".

Debt management companies must ensure they comply with the financial promotions requirements imposed by FSMA and the FCA's rules set out in Chapter 3 of CONC. The rules that follow apply to financial marketing communications that are not regulated by the FCA and to marketing communications for debt advice. All financial marketing communications are, however, subject to Code rules that cover non-technical elements of communications; for example, serious or widespread offence, social responsibility and the truthfulness of claims that do not relate to specific characteristics of financial products.

## Rules

14.1 Offers of financial products must be set out in a way that allows them to be understood easily by the audience being addressed. Marketers must ensure that they do not take advantage of consumers' inexperience or credulity.

14.2 Marketing communications should state the nature of the contract being offered, any limitation, expense, penalty or charge and the terms of withdrawal. Alternatively, if a marketing communication is short or general in its content, free material explaining the offer must be made readily available to consumers before a binding contract is entered into.

14.3 The basis used to calculate any rate of interest, forecast or projection must be apparent immediately.

14.4 Marketing communications must make clear that the value of investments is variable and, unless guaranteed, can go down as well as up. If the value of the investment is guaranteed, the marketing communication must explain the guarantee.

14.5 Marketing communications should make clear that past performance or experience does not necessarily give a guide for the future; if they are used in marketing communications, examples of past performance or experience should not be unrepresentative.