

FCA gives a final warning on misleading adverts

Tuesday, April 16, 2019

Back in January, the Financial Conduct Authority (“FCA”) published a letter to the CEOs of regulated firms warning them against misleading financial promotions. As we noted in our previous [blog](#), on the subject, the letter specifically concerned firms not making clear which parts of their business are subject to FCA regulation and, importantly, which are not.

It appears that the letter may not have had the desired effect.

Last week, the FCA published another ‘Dear CEO’ [letter](#) (“Letter”). The regulator states that it has ‘identified a number of examples where it appears the due diligence carried out on a financial promotion may have fallen well short of the [expected] standard’.

LC&F

The FCA is concerned that firms conduct adequate due diligence, especially in relation to retail investment products, in order to highlight the risks involved to consumers. The Letter comes after a [statement](#) indicating that there will be an independent investigation into the existing regulatory regime and the FCA’s supervision of London Capital & Finance plc (“LC&F”). Misleading adverts from LC&F promoting a risky mini-bond issue ultimately led to ‘unacceptable levels of harm’ to consumers. It is therefore any surprise that the FCA is redoubling its efforts to stamp out this practice going forwards.

Continuing obligations and consequences

The Letter highlights that firms have a continuing obligation to review financial promotions. If a firm finds that a promotion is no longer conforming, they must withdraw its approval. Therefore, it is crucial for firms to have adequate systems and controls in place to comply with the rules on financial promotions as set out in the FCA’s Conduct of Business Rules.

The FCA reminds firms that, as well as being able to remove the infringing advert and cancel the proposed issue of products to investors, the regulator can also instigate criminal proceedings against firms.

With the spotlight on the regulator, the Letter appears to be final warning on the subject of misleading financial promotions. It would be prudent of firms to review their practices now to avoid any future disciplinary action.

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