

# BCAP Spread Betting Advertising Rules

## BCAP Radio Advertising Standards Code

*[Shaded sections are already part of BCAP Radio Advertising Standards Code Section 3 Rule 1. The additions that will apply from 1 September 2007 are not shaded. Deletions that will apply from 1 September 2007 are struck through.]*

### **Section Three – Rules for Specific Categories**

#### **1 Financial Products and Services**

**Central copy clearance is required.**

**These Rules regulate financial advertisements and not financial products and services, which are regulated by the financial services regulators, including the Financial Services Authority (FSA) and the Office of Fair Trading (OFT). Financial advertisements must comply with all relevant legislation, in particular the Financial Services and Markets Act 2000 (FSMA) and the Consumer Credit (Advertisements) Regulations 2004.**

In this Rule, 'investment activity', 'regulated activity', 'financial promotion' and 'authorised person' have the same meanings as in the FSMA and the Financial Services and Markets Act (Financial Promotion) Order 2005 (FPO). Under the FSMA, a financial promotion is "an invitation or inducement to engage in investment activity." This broad definition captures all promotional activity – including traditional advertising, telephone sales and face to face conversations – in relation to all products and services regulated by the FSA. It is important to remember that 'investment activity' under the FSMA does not cover only what are conventionally thought of as investments, but also includes deposits and all insurance, including some advertisements by insurance intermediaries – see the Insurance Conduct of Business (ICOB) Chapter 3.1.2G in the FSA Handbook.

The ASA and BCAP Executive may seek advice from other regulators when investigating possible breaches of this Rule following a complaint or monitoring.

#### **1.1 Legal Responsibility**

**Advertisers are responsible for ensuring that their advertisements comply with all the relevant legal and regulatory requirements.**

#### **1.4 Approval of Financial Promotions in Advertising**

**Before accepting financial promotions to which Section 21 of the FSMA applies and that are not subject to an exemption under the FPO, licensees must be satisfied that:**

**i the authorised person issuing or approving the proposed advertisement, has confirmed that the final recorded version of the advertisement is in accordance with the Rules of the FSA;**

**ii a financial promotion or other advertisement in respect of regulated activity proposed by an appointed representative has been approved by the authorised person to whom that person is responsible.**

Legal advice, or general advice from the FSA, may be required concerning compliance with FSMA requirements. Please note that the FSA does not prevent or advise on the compliance of proposed financial promotions with the FSMA requirements. For more information visit the financial promotions pages of the FSA website ([www.fsa.gov.uk](http://www.fsa.gov.uk)) and see the FSA Handbook, in particular Conduct of Business Chapter 3 (COB3), Mortgage Conduct of Business Chapter 3 (MCOB3) and ICOB Chapter 3.

### **1.13 Spread Betting Advertisements**

**Spread betting may be advertised as an investment activity under the Financial Services and Markets Act (FSMA) 2000, the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 and other FSA rules and guidance. Spread betting may be advertised on specialised financial stations or in specialised financial programming only. Spread betting advertisements must comply with the gambling rules (see Section 3, Rule 21).**

A “Spread Bet” is a contract for differences that is a gaming contract, as defined in the glossary to the FSA Handbook.

For this purpose, a "specialised financial station" is an Ofcom licensed station whose programmes, with few exceptions, are likely to be of particular interest only to business people or finance professionals. “Specialised financial programming” is programming that is likely to be of particular interest only to business people or finance professionals.