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## STATUTORY INSTRUMENTS

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# 2005 No. 1529

## The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005

### PART V

#### *Exempt Communications: Deposits and Insurance*

##### **Interpretation: relevant insurance activity**

**21.** In this Part, a “relevant insurance activity” means a controlled activity falling within paragraph 2 of Schedule 1 carried on in relation to an investment falling within paragraph 13 of that Schedule where that investment is not a qualifying contract of insurance.

##### **Deposits: non-real time communications**

**22.—**(1) If the requirements of paragraph (2) are met, the financial promotion restriction does not apply to any non-real time communication which relates to a controlled activity falling within paragraph 1 of Schedule 1 [F1except where that controlled activity relates to a structured deposit].

(2) The requirements of this paragraph are that the communication is accompanied by an indication—

- (a) of the full name of the person with whom the investment which is the subject of the communication is to be made (“deposit-taker”);
- (b) of the country or territory in which a deposit-taker that is a body corporate is incorporated (described as such);
- (c) if different, of the country or territory in which the deposit-taker's principal place of business is situated (described as such);
- (d) whether or not the deposit-taker is regulated in respect of his deposit-taking business;
- (e) if the deposit-taker is so regulated, of the name of the regulator in the deposit-taker's principal place of business, or if there is more than one such regulator, the prudential regulator;
- (f) whether any transaction to which the communication relates would, if entered into by the recipient and the deposit-taker, fall within the jurisdiction of any dispute resolution scheme or deposit guarantee scheme and if so, identifying each such scheme;
- (g) the necessary capital information.

(3) In this article—

“full name”, in relation to a person, means the name under which that person carries on business and, if different, that person's corporate name;

“liabilities” includes provisions where such provisions have not been deducted from the value of the assets;

“necessary capital information” means—

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**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, PART V. (See end of Document for details)

- (a) in relation to a deposit-taker which is a body corporate, either the amount of its paid up capital and reserves, described as such, or a statement that the amount of its paid up capital and reserves exceeds a particular amount (stating it);
- (b) in relation to a deposit-taker which is not a body corporate, either the amount of the total assets less liabilities (described as such) or a statement that the amount of its total assets exceeds a particular amount (stating it) and that its total liabilities do not exceed a particular amount (stating it).

#### Textual Amendments

**F1** Words in [art. 22\(1\)](#) inserted (1.4.2017 for specified purposes) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), [Sch. para. 9\(3\)](#)

#### Deposits: real time communications

**23.** The financial promotion restriction does not apply to any real time communication (whether solicited or unsolicited) which relates to an activity falling within paragraph 1 of Schedule 1 [<sup>F2</sup>except where that controlled activity relates to a structured deposit].

#### Textual Amendments

**F2** Words in [art. 23](#) inserted (1.4.2017 for specified purposes) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2017 \(S.I. 2017/488\)](#), art. 1(2), [Sch. para. 9\(4\)](#)

#### Relevant insurance activity: non-real time communications

**24.—(1)** If the requirements of paragraph (2) are met, the financial promotion restriction does not apply to any non-real time communication which relates to a relevant insurance activity.

(2) The requirements of this paragraph are that the communication is accompanied by an indication—

- (a) of the full name of the person with whom the investment which is the subject of the communication is to be made (“the insurer”);
- (b) of the country or territory in which the insurer is incorporated (described as such);
- (c) if different, of the country or territory in which the insurer's principal place of business is situated (described as such);
- (d) whether or not the insurer is regulated in respect of its insurance business;
- (e) if the insurer is so regulated, of the name of the regulator of the insurer in its principal place of business or, if there is more than one such regulator, the name of the prudential regulator;
- (f) whether any transaction to which the communication relates would, if entered into by the recipient and the insurer, fall within the jurisdiction of any dispute resolution scheme or compensation scheme and if so, identifying each such scheme.

(3) In this article “full name”, in relation to a person, means the name under which that person carries on business and, if different, that person's corporate name.

**Relevant insurance activity: non-real time communications: reinsurance and large risks**

25.—(1) The financial promotion restriction does not apply to any non-real time communication which relates to a relevant insurance activity and concerns only—

- (a) a contract of reinsurance; or
- (b) a contract that covers large risks.

(2) “Large risks” means—

- (a) risks falling within paragraph 4 (railway rolling stock), 5 (aircraft), 6 (ships), 7 (goods in transit), 11 (aircraft liability) or 12 (liability of ships) of Schedule 1 to the Regulated Activities Order;
- (b) risks falling within paragraph 14 (credit) or 15 (suretyship) of that Schedule provided that the risks relate to a business carried on by the recipient;
- (c) risks falling within paragraph 3 (land vehicles), 8 (fire and natural forces), 9 (damage to property), 10 (motor vehicle liability), 13 (general liability) or 16 (miscellaneous financial loss) of that Schedule provided that the risks relate to a business carried on by the recipient and that the condition specified in paragraph (3) is met in relation to that business.

(3) The condition specified in this paragraph is that at least two of the three following criteria were exceeded in the most recent financial year for which information is available prior to the making of the communication—

- [<sup>F3</sup>(a) the aggregate of the amounts shown as assets in the balance sheet of the business was 6.2 million euros;]
- (b) the net turnover (within the meaning given to “turnover” by [<sup>F4</sup>section 474(1) of the 2006 Act] was 12.8 million euros;
- (c) the number of employees (within the meaning given by [<sup>F5</sup>section 465(6) of the 2006 Act] was 250;

and for a financial year which is a company's financial year but not in fact a year, the net turnover of the recipient shall be proportionately adjusted.

(4) For the purposes of paragraph (3), where the recipient is a member of a group for which consolidated accounts (within the meaning of the Seventh Company Law Directive) are drawn up, the question whether the condition met in that paragraph is met is to be determined by reference to those accounts.

**Textual Amendments**

- F3** Art. 25(3)(a) substituted (12.5.2011) by [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), arts. 1(2), **26(5)(a)**
- F4** Words in art. 25(3)(b) substituted (12.5.2011) by [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), arts. 1(2), **26(5)(b)**
- F5** Words in art. 25(3)(c) substituted (12.5.2011) by [The Companies Act 2006 \(Consequential Amendments and Transitional Provisions\) Order 2011 \(S.I. 2011/1265\)](#), arts. 1(2), **26(5)(c)**

**Relevant insurance activity: real time communication**

26. The financial promotion restriction does not apply to any real time communication (whether solicited or unsolicited) which relates to a relevant insurance activity.

**Status:**

Point in time view as at 01/04/2017.

**Changes to legislation:**

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, PART V.