
STATUTORY INSTRUMENTS

2001 No. 1335

The Financial Services and Markets Act
2000 (Financial Promotion) Order 2001

PART VI

EXEMPT COMMUNICATIONS: CERTAIN CONTROLLED ACTIVITIES

One off non-real time communications and solicited real time communications

28.—(1) The financial promotion restriction does not apply to a one off communication which is either a non-real time communication or a solicited real time communication.

(2) If all the conditions set out in paragraph (3) are met in relation to a communication it is to be regarded as a one off communication. In any other case in which one or more of those conditions are met, that fact is to be taken into account in determining whether the communication is a one off communication (but a communication may still be regarded as a one off communication even if none of the conditions in paragraph (3) is met).

(3) The conditions are that—

- (a) the communication is made only to one recipient or only to one group of recipients in the expectation that they would engage in any investment activity jointly;
- (b) the identity of the product or service to which the communication relates has been determined having regard to the particular circumstances of the recipient;
- (c) the communication is not part of an organised marketing campaign.

(4) Notwithstanding article 11, the financial promotion restriction does not apply to a one off solicited real time communication relating to the controlled activity falling within paragraph 10 of Schedule 1 (or within paragraph 11 in so far as it relates to that activity) even if the communication also relates to the controlled activity falling within paragraph 1 of that Schedule.