
STATUTORY INSTRUMENTS

2001 No. 3800

**The Financial Services and Markets Act 2000
(Financial Promotion) (Amendment No. 2) Order 2001**

Exemption for communications by journalists

2. For article 20 (communications by journalists) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2001(1) substitute—

“Communications by journalists

20.—(1) Subject to paragraph (2), the financial promotion restriction does not apply to any non-real time communication if—

- (a) the content of the communication is devised by a person acting in the capacity of a journalist;
- (b) the communication is contained in a qualifying publication; and
- (c) in the case of a communication requiring disclosure, one of the conditions in paragraph (2) is met.

(2) The conditions in this paragraph are that—

- (a) the communication is accompanied by an indication explaining the nature of the author’s financial interest or that of a member of his family (as the case may be);
- (b) the authors are subject to proper systems and procedures which prevent the publication of communications requiring disclosure without the explanation referred to in sub-paragraph (a); or
- (c) the qualifying publication in which the communication appears falls within the remit of—
 - (i) the Code of Practice issued by the Press Complaints Commission;
 - (ii) the Programme Code of the Radio Authority; or
 - (iii) the Producers’ Guidelines issued by the British Broadcasting Corporation.

(3) For the purposes of this article, a communication requires disclosure if—

- (a) an author of the communication or a member of his family is likely to obtain a financial benefit or avoid a financial loss if people act in accordance with the invitation or inducement contained in the communication;
- (b) the communication relates to a controlled investment of a kind falling within paragraph (4); and
- (c) the communication identifies directly a person who issues or provides the controlled investment to which the communication relates.

(4) A controlled investment falls within this paragraph if it is—

- (a) an investment falling within paragraph 14 of Schedule 1 to this Order (shares or stock in share capital);
 - (b) an investment falling within paragraph 21 of that Schedule (options) to acquire or dispose of an investment falling within sub-paragraph (a);
 - (c) an investment falling within paragraph 22 of that Schedule (futures) being rights under a contract for the sale of an investment falling within sub-paragraph (a); or
 - (d) an investment falling within paragraph 23 of that Schedule (contracts for differences) being rights under a contract relating to, or to fluctuations in, the value or price of an investment falling within sub-paragraph (a).
- (5) For the purposes of this article—
- (a) the authors of the communication are the person who devises the content of the communication and the person who is responsible for deciding to include the communication in the qualifying publication;
 - (b) a “qualifying publication” is a publication or service of the kind mentioned in paragraph (1) or (2) of article 54 of the Regulated Activities Order and which is of the nature described in that article, and for the purposes of this article, a certificate given under article 54(3) of the Regulated Activities Order and not revoked is conclusive evidence of the matters certified;
 - (c) the members of a person’s family are his spouse and any children of his under the age of 18 years.”.