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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 IV**

*Exempt Communications: All Controlled Activities*

**Exempt persons**

**16.**—(1) The financial promotion restriction does not apply to any communication which—

- (a) is a non-real time communication or a solicited real time communication;
- (b) is made or directed by an exempt person; and
- (c) is for the purposes of that exempt person's business of carrying on a controlled activity [<sup>F1</sup>or controlled claims management activity] which is also a regulated activity in relation to which he is an exempt person.

[<sup>F2</sup>(1A) The financial promotion restriction also does not apply to any communication which is—

- (a) a non-real time communication or a solicited real time communication;
- (b) made by a person who is an appointed representative (within the meaning of section 39(2) of the Act) and is carrying on an activity to which sections 20(1) and (1A) and 23(1A) of the Act do not apply by virtue of section 39(1D); and
- (c) made for the purposes of that person's business of carrying on a controlled activity which is also a regulated activity to which sections 20(1) and (1A) and 23(1A) of the Act do not apply by virtue of section 39(1D).]

(2) The financial promotion restriction does not apply to any unsolicited real time communication made by a person ("AR") who is an appointed representative (within the meaning of section 39(2) of the Act) where—

- (a) the communication is made by AR in carrying on the business—
  - (i) for which his principal ("P") has accepted responsibility for the purposes of section 39 of the Act; and
  - (ii) in relation to which AR is exempt from the general prohibition by virtue of that section [<sup>F3</sup>or in relation to which sections 20(1) and (1A) and 23(1A) of the Act do not apply by virtue of that section]; and
- (b) the communication is one which, if it were made by P, would comply with any rules made [<sup>F4</sup>by the FCA under section 137R] of the Act (financial promotion rules) which are relevant to a communication of that kind.

**Textual Amendments**

- F1** Words in art. 16(1)(c) inserted (E.W.S.) (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Claims Management Activity\) Order 2018 \(S.I. 2018/1253\)](#), arts. 1(2)(3), **17**
- F2** Art. 16(1A) inserted (14.2.2014 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2014 \(S.I. 2014/366\)](#), arts. 1(3)(4), **10(3)**
- F3** Words in art. 16(2)(a)(ii) inserted (1.9.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) \(No. 3\) Order 2013 \(S.I. 2013/1765\)](#), arts. 1, **6(2)**
- F4** Words in art. 16(2)(b) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), **Sch. 2 para. 108(a)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, Section 16.