
STATUTORY INSTRUMENTS

2005 No. 1529

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

PART IV

Exempt Communications: All Controlled Activities

Mere conduits

18.—(1) Subject to paragraph (4), the financial promotion restriction does not apply to any communication which is made or directed by a person who acts as a mere conduit for it.

(2) A person acts as a mere conduit for a communication if—

- (a) he communicates it in the course of an activity carried on by him, the principal purpose of which is transmitting or receiving material provided to him by others;
- (b) the content of the communication is wholly devised by another person; and
- (c) the nature of the service provided by him in relation to the communication is such that he does not select, modify or otherwise exercise control over its content prior to its transmission or receipt.

(3) For the purposes of paragraph (2)(c) a person does not select, modify or otherwise exercise control over the content of a communication merely by removing or having the power to remove material—

- (a) which is, or is alleged to be, illegal, defamatory or in breach of copyright;
- (b) in response to a request to a body which is empowered by or under any enactment to make such a request; or
- (c) when otherwise required to do so by law.

(4) Nothing in paragraph (1) prevents the application of the financial promotion restriction in so far as it relates to the person who has caused the communication to be made or directed.

(5) This article does not apply to an electronic commerce communication.