
STATUTORY INSTRUMENTS

2005 No. 1529

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

PART VI

Exempt Communications: Certain Controlled Activities

Common interest group of a company

52.—(1) “Common interest group”, in relation to a company, means an identified group of persons who at the time the communication is made might reasonably be regarded as having an existing and common interest with each other and that company in—

- (a) the affairs of the company; and
- (b) what is done with the proceeds arising from any investment to which the communication relates.

(2) If the requirements of paragraphs (3) and either (4) or (5) are met, 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 only to persons who are members of a common interest group of a company, or may reasonably be regarded as directed only at such persons; and
- (c) relates to investments falling within paragraph 14 or 15 of Schedule 1 which are issued, or to be issued, by that company.

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

- (a) that the directors of the company (or its promoters named in the communication) have taken all reasonable care to ensure that every statement of fact or opinion included in the communication is true and not misleading given the form and context in which it appears;
- (b) that the directors of the company (or its promoters named in the communication) have not limited their liability with respect to the communication; and
- (c) that any person who is in any doubt about the investment to which the communication relates should consult an authorised person specialising in advising on investments of the kind in question.

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

- (a) that the directors of the company (or its promoters named in the communication) have taken all reasonable care to ensure that any person belonging to the common interest group (and his professional advisers) can have access, at all reasonable times, to all the information that he or they would reasonably require, and reasonably expect to find, for the purpose of making an informed assessment of the assets and liabilities, financial

Status: Point in time view as at 21/12/2005. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, Section 52. (See end of Document for details)

position, profits and losses and prospects of the company and of the rights attaching to the investments in question; and

(b) describing the means by which such information can be accessed.

(5) The requirements of this paragraph are that the communication is accompanied by an indication that any person considering subscribing for the investments in question should regard any subscription as made primarily to assist the furtherance of the company's objectives (other than any purely financial objectives) and only secondarily, if at all, as an investment.

(6) For the purposes of paragraph (2)(b)—

(a) if all the conditions set out in paragraph (7) are met, the communication is to be regarded as directed at persons who are members of the common interest group;

(b) in any other case in which one or more of those conditions are met, that fact shall be taken into account in determining whether the communication is directed at persons who are members of the common interest group (but a communication may still be regarded as directed only at such persons even if none of the conditions in paragraph (7) is met).

(7) The conditions are that—

(a) the communication is accompanied by an indication that it is directed at persons who are members of the common interest group and that any investment or activity to which it relates is available only to such persons;

(b) the communication is accompanied by an indication that it must not be acted upon by persons who are not members of the common interest group;

(c) there are in place proper systems and procedures to prevent recipients other than members of the common interest group engaging in the investment activity to which the communication relates with the person directing the communication, a close relative of his or a member of the same group.

(8) Persons are not to be regarded as having an interest of the kind described in paragraph (1) if the only reason why they would be so regarded is that—

(a) they will have such an interest if they become members or creditors of the company;

(b) they all carry on a particular trade or profession; or

(c) they are persons with whom the company has an existing business relationship, whether by being its clients, customers, contractors, suppliers or otherwise.

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