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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 III

*Exemptions: Interpretation and Application*

**Interpretation: solicited and unsolicited real time communications**

**8.—**(1) A real time communication is solicited where it is made in the course of a personal visit, telephone call or other interactive dialogue if that call, visit or dialogue—

- (a) was initiated by the recipient of the communication; or
- (b) takes place in response to an express request from the recipient of the communication.

(2) A real time communication is unsolicited where it is made otherwise than as described in paragraph (1).

(3) For the purposes of paragraph (1)—

- (a) a person is not to be treated as expressly requesting a call, visit or dialogue—
  - (i) because he omits to indicate that he does not wish to receive any or any further visits or calls or to engage in any or any further dialogue;
  - (ii) because he agrees to standard terms that state that such visits, calls or dialogue will take place, unless he has signified clearly that, in addition to agreeing to the terms, he is willing for them to take place;

- (b) a communication is solicited only if it is clear from all the circumstances when the call, visit or dialogue is initiated or requested that during the course of the visit, call or dialogue communications will be made concerning the kind of controlled activities or investments to which the communications in fact made relate;

- (c) it is immaterial whether the express request was made before or after this article comes into force.

(4) Where a real time communication is solicited by a recipient (“R”), it is treated as having also been solicited by any other person to whom it is made at the same time as it is made to R if that other recipient is—

- (a) a close relative of R; or
- (b) expected to engage in any investment activity jointly with R.