

**EXPLANATORY MEMORANDUM TO
THE FINANCIAL SERVICES AND MARKETS ACT 2000 (FINANCIAL
PROMOTION)
(AMENDMENT) ORDER 2007
2007 NO.1083**

1. Introduction

1.1 This explanatory memorandum has been prepared by Her Majesty's Treasury and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This statutory instrument amends the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (“the Financial Promotion Order”) to add ShareMark to the list of relevant EEA markets in Part II of Schedule 3, to update the Schedule to reflect name changes of some existing markets, and to add new EEA regulated markets.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative background

4.1 These regulations amend the list of relevant EEA markets in Part II of Schedule 3 to the Financial Promotion Order. Similar amendments have previously been made to the list¹.

5. Extent

5.1 These Regulations apply to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation no statement is necessary.

7. Policy Background

7.1 The Financial Services and Markets Act 2000 establishes a general restriction on financial promotions. The Financial Promotion Order elaborates on this and in particular provides a number of exemptions from the restriction on financial promotions. One such exemption is that the financial promotion restriction does not apply to any communication which is communicated by a relevant market².

¹ SI 2002/1310 amended the list in Part II of Schedule 3 to the Financial Services and Markets Act 2000 (Financial Promotion) Order 2001 which was replaced by the Financial Promotion Order 2005.

² Articles 37, 41, 67, 68 and 69.

7.2. A relevant market is defined as one that meets the criteria specified in Part I of Schedule 3 or is specified in, or is established under the rules of an exchange specified in, Part II, III or IV of that Schedule. Part II lists certain investment exchanges operating relevant EEA markets.

7.3 The absence of relevant market status for the purposes of the Financial Promotion Order, means that documentation available to investors on companies seeking admission to trading will require financial promotion approval, thereby increasing the cost of raising capital to companies.

7.4 ShareMark is an alternative trading system which facilitates trading in stocks, typically of smaller companies. It is regulated by the FSA and both complies with the criteria established for a relevant market and is regulated in a similar manner to a market already included in Part II of Schedule 3. It is therefore appropriate that ShareMark should be added to the list of relevant EEA markets.

7.5 This SI also updates the list in Part II of Schedule 3 to the Financial Promotion Order to reflect changes to the names of certain markets and new EEA regulated markets.

8. Impact

8.1 A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

9. Contact

9.1 Sarah Parkinson at HM Treasury: Tel 020 7270 5912 or e-mail: sarah.parkinson@hm-treasury.x.gsi.gov.uk can answer any queries regarding the regulations.