



# Financial Services Act 1986

## 1986 CHAPTER 60

### PART V

#### OFFERS OF UNLISTED SECURITIES

#### **160 Other offers of securities**

- (1) Subject to subsections (5) and (6) and section 161 below, no person shall issue or cause to be issued in the United Kingdom an advertisement offering any securities which is a primary or secondary offer within the meaning of this section unless—
  - (a) he has delivered for registration to the registrar of companies a prospectus relating to the securities and expressed to be in respect of the offer ; or
  - (b) the advertisement is such that no agreement can be entered into in pursuance of it until such a prospectus has been delivered by him as aforesaid.
- (2) For the purposes of this section a primary offer is an advertisement issued otherwise than as mentioned in section 159(1) above inviting persons to enter into an agreement for or with a view to subscribing (whether or not in cash) for or underwriting the securities to which it relates or containing information calculated to lead directly or indirectly to their doing so.
- (3) For the purposes of this section a secondary offer is any other advertisement issued otherwise than as mentioned in section 159(1) above inviting persons to enter into an agreement for or with a view to acquiring the securities to which it relates or containing information calculated to lead directly or indirectly to their doing so, being an advertisement issued or caused to be issued by—
  - (a) a person who has acquired the securities from the issuer with a view to issuing such an advertisement in respect of them;
  - (b) a person who, with a view to issuing such an advertisement in respect of them, has acquired the securities otherwise than from the issuer but without their having been admitted to dealings on an approved exchange or held by a person who acquired them as an investment and without any intention that such an advertisement should be issued in respect of them ; or

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*Status: This is the original version (as it was originally enacted).*

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- (c) a person who is a controller of the issuer or has been such a controller in the previous twelve months and who is acting with the consent or participation of the issuer in issuing the advertisement.
- (4) For the purposes of subsection (3)(a) above it shall be presumed in the absence of evidence to the contrary that a person has acquired securities with a view to issuing an advertisement offering the securities if he issues it or causes it to be issued—
  - (a) within six months after the issue of the securities ; or
  - (b) before the consideration due from him for their acquisition is received by the person from whom he acquired them.
- (5) Subsection (1) above does not apply to a secondary offer if such a prospectus as is mentioned in that subsection has been delivered in accordance with that subsection in respect of an offer of the same securities made in the previous six months by a person making a primary offer or a previous secondary offer.
- (6) Subsection (1) above does not apply to an advertisement issued in such circumstances as may be specified by an order made by the Secretary of State for the purpose of exempting from that subsection—
  - (a) advertisements appearing to him to have a private character, whether by reason of a connection between the person issuing them and those to whom they are addressed or otherwise;
  - (b) advertisements appearing to him to deal with investments only incidentally;
  - (c) advertisements issued to persons appearing to him to be sufficiently expert to understand any risks involved; or
  - (d) such other classes of advertisement as he thinks fit.
- (7) Without prejudice to subsection (6)(c) above an order made by the Secretary of State may exempt from subsection (1) above an advertisement issued in whatever circumstances if it relates to securities appearing to him to be of a kind that can be expected normally to be bought or dealt in only by persons sufficiently expert to understand any risks involved.
- (8) An order under subsection (6) or (7) above may require any person who by virtue of the order is authorised to issue an advertisement to comply with such requirements as are specified in the order.
- (9) An order made by virtue of subsection (6)(a), (b) or (c) or by virtue of subsection (7) above shall be subject to annulment in pursuance of a resolution of either House of Parliament; and no order shall be made by virtue of subsection (6)(d) above unless a draft of it has been laid before and approved by a resolution of each House of Parliament.