
STATUTORY INSTRUMENTS

1995 No. 1266

The Financial Services Act 1986 (Investment Advertisements) (Exemptions) Order 1995

Advertisements issued to persons sufficiently expert to understand the risks involved

11.—(1) In this article “relevant person” means a person who is not an authorised person and who is not unlawfully carrying on investment business in the United Kingdom.

(2) Subject to the provisions of paragraph (4) of this article, section 57 of the Act shall not apply to an investment advertisement issued or caused to be issued by a relevant person if either—

- (a) in the case of an advertisement which takes the form of a document, the only persons, other than persons to whom the advertisement may otherwise lawfully be issued, to whom the relevant person issues or causes the advertisement to be issued are persons whom he reasonably believes to be persons of a kind described in paragraph (3) below and, in a case in which a person is described in paragraph (3) below as acting in a particular capacity, the advertisement was issued to that person in that capacity; or
 - (b) in any other case, the relevant person reasonably believes that the means by which the advertisement is issued is such that it will not generally be made available except to persons to whom the advertisement may otherwise lawfully be issued or who are of a kind described in paragraph (3) below and, in a case in which a person is described in paragraph (3) below as acting in a particular capacity, the relevant person intended the advertisement to be received by him in that capacity.
- (3) A person falls within this paragraph if he is either—
- (a) an authorised person; or
 - (b) an exempted person; or
 - (c) a person who is acting in the course of a business or employment which involves the dissemination of information concerning investments or activities of the kind described in Part II of Schedule 1 to the Act through newspapers, journals, magazines or other periodical publications or by way of sound broadcasting or television; or
 - (d) a government, local authority or public authority within the meaning of Note 1 to paragraph 3 of Schedule 1 to the Act; or
 - (e) a body corporate or an unincorporated association which either—
 - (i) if it is a body corporate and has more than 20 members or is the subsidiary of a holding company which has more than 20 members, it, or any of its holding companies or subsidiaries, has a called up share capital or net assets of not less than £500,000; or
 - (ii) if it is a body corporate other than one described in sub-paragraph (e)(i) above, it or any of its holding companies or subsidiaries has a called up share capital or net assets of not less than £5 million; or
 - (iii) if it is an unincorporated association, it has net assets of not less than £5 million; or
 - (f) a person who holds a permission granted under paragraph 23 of Schedule 1 to the Act; or

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- (g) a person acting in his capacity as a director, officer or employee of a person of a kind described above in this paragraph being a person whose responsibilities, when acting in that capacity, involve him engaging in activities which fall within Part II of Schedule 1 to the Act or which would fall within that Part were it not for the provisions of Part III of that Schedule; or
 - (h) any trustee of a trust where the aggregate value of the cash and investments which form part of the trust's assets (before deducting the amount of its liabilities) is £10 million or more or has been £10 million or more at any time during the previous two years.
- (4) In paragraph (3) above, the expression "net assets" has the meaning assigned to it in section 264 of the 1985 Act.