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STATUTORY INSTRUMENTS

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**2001 No. 1335**

The Financial Services and Markets Act  
2000 (Financial Promotion) Order 2001

PART IV

EXEMPT COMMUNICATIONS: ALL CONTROLLED ACTIVITIES

**Investment professionals**

**19.**—(1) The financial promotion restriction does not apply to any communication which—

- (a) is made only to recipients whom the person making the communication believes on reasonable grounds to be investment professionals; or
- (b) may reasonably be regarded as directed only at such recipients.

(2) For the purposes of paragraph (1)(b), if all the conditions set out in paragraph (4)(a) to (c) are met in relation to the communication, it is to be regarded as directed only at investment professionals.

(3) In any other case in which one or more of the conditions set out in paragraph (4)(a) to (c) are met, that fact is to be taken into account in determining whether the communication is directed only at investment professionals (but a communication may still be regarded as so directed even if none of the conditions in paragraph (4) is met).

(4) The conditions are that—

- (a) the communication is accompanied by an indication that it is directed at persons having professional experience in matters relating to investments and that any investment or investment activity to which it relates is available only to such persons or will be engaged in only with such persons;
- (b) the communication is accompanied by an indication that persons who do not have professional experience in matters relating to investments should not rely on it;
- (c) there are in place proper systems and procedures to prevent recipients other than investment professionals 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.

(5) “Investment professionals” means—

- (a) an authorised person;
- (b) an exempt person where the communication relates to a controlled activity which is a regulated activity in relation to which the person is exempt;
- (c) any other person—
  - (i) whose ordinary activities involve him in carrying on the controlled activity to which the communication relates for the purpose of a business carried on by him; or
  - (ii) who it is reasonable to expect will carry on such activity for the purposes of a business carried on by him;

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (d) a government, local authority (whether in the United Kingdom or elsewhere) or an international organisation;
  - (e) a person (“A”) who is a director, officer or employee of a person (“B”) falling within any of sub-paragraphs (a) to (d) where the communication is made to A in that capacity and where A’s responsibilities when acting in that capacity involve him in the carrying on by B of controlled activities.
- (6) For the purposes of paragraph (1), a communication may be treated as made only to or directed only at investment professionals even if it is also made to or directed at other persons to whom it may lawfully be communicated.