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STATUTORY INSTRUMENTS

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**2002 No. 1310**

**FINANCIAL SERVICES AND MARKETS**

**The Financial Services and Markets Act 2000 (Financial  
Promotion and Miscellaneous Amendments) Order 2002**

<i>Made</i>	- - - -	<i>9th May 2002</i>
<i>Laid before Parliament</i>		<i>10th May 2002</i>
<i>Coming into force</i>	- -	<i>5th June 2002</i>

The Treasury, in exercise of the powers conferred upon them by sections 21(5), (6), 22(1), (5), 38, 238(6), (7) and 428(3) of, and paragraph 25 of Schedule 2 to, the Financial Services and Markets Act 2000(1), hereby make the following Order:

**Citation and commencement**

1. This Order may be cited as the Financial Services and Markets Act 2000 (Financial Promotion and Miscellaneous Amendments) Order 2002 and comes into force on 5th June 2002.

**Amendments to the Financial Promotion Order**

2.—(1) This article amends the Financial Services and Markets Act 2000 (Financial Promotion) Order 2001(2).

(2) In article 2(1) (interpretation), in the definition of “publication”, after “web site”, insert “or similar system for the electronic display of information”.

(3) In sub-paragraph (c) of paragraph (2) of article 20 (communications by journalists)—

(a) at the end of sub-paragraph (ii), omit “or”; and

(b) at the end of sub-paragraph (iii), insert—

“; or

(i) the Programme Code of the Independent Television Commission”.

(4) In article 49(2) (high net worth companies, unincorporated associations etc.), for sub-paragraph (a), substitute—

“(a) any body corporate which has, or which is a member of the same group as an undertaking which has, a called-up share capital or net assets of not less than—

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(1) 2000 c. 8.

(2) S.I. 2001/1335, amended by S.I. 2001/2633, S.I. 2001/3650 and S.I. 2001/3800.

- (i) if the body corporate has more than 20 members or is a subsidiary undertaking of an undertaking which has more than 20 members, £500,000;
  - (ii) otherwise, £5 million;”.
- (5) In Schedule 3 (markets and exchanges)—
- (a) for the heading of Part II (“Certain Investment Exchanges Operating Relevant EEA Markets”), substitute “Certain Investment Exchanges Operating Relevant EEA Markets and Certain Relevant EEA Markets”;
  - (b) in Part II, for “Nuovo Mercato (Italy).”, substitute “Nuovo Mercato (Italy).”;
  - (c) after that entry, insert “OFEX (UK).”; and
  - (d) in Part III—
    - (i) omit “Alberta Stock Exchange.”, “Vancouver Stock Exchange.” and “Winnipeg Stock Exchange.”; and
    - (ii) after “Buenos Aires Stock Exchange.”, insert “Canadian Venture Exchange.”.
- (6) In Schedule 4 (takeovers of relevant unlisted companies)—
- (a) in paragraph 22, for “paragraph 17, 19 or 21”, substitute “paragraph 17, 18 or 21”;
  - (b) in paragraphs 28(1)(b), 28(2)(a) and 31, for “invitation or information”, substitute “invitation or inducement”;
  - (c) in paragraph 28(2) and 45, in each case—
    - (i) for “passed a resolution in accordance with section 252 of the 1985 Act or article 260 of the 1986 Order”, substitute “been exempt from the provisions of Part VII of the 1985 Act relating to the audit of accounts by virtue of section 249A or 249AA of that Act<sup>(3)</sup> or been exempt from the provisions of Part VIII of the 1986 Order relating to the audit of accounts by virtue of article 257A or 257AA of the 1986 Order<sup>(4)</sup>”; and
    - (ii) for “from the obligation to appoint auditors”, substitute “from those provisions of Part VII of the 1985 Act or Part VIII of the 1986 Order”; and
  - (d) in paragraph 47, for “Part I”, substitute “Part II”.

### **Amendments to the Promotion of Collective Investment Schemes Order**

**3.—(1)** This article amends the Financial Services and Markets Act 2000 (Promotion of Collective Investment Schemes) (Exemptions) Order 2001<sup>(5)</sup>.

(2) In article 2(1) (interpretation), in the definition of “publication”, after “web site”, insert “or similar system for the electronic display of information”.

(3) In article 22(2) (high net worth companies, unincorporated associations etc.), for subparagraph (a), substitute—

- “(a) any body corporate which has, or which is a member of the same group as an undertaking which has, a called-up share capital or net assets of not less than—
  - (i) if the body corporate has more than 20 members or is a subsidiary undertaking of an undertaking which has more than 20 members, £500,000;
  - (ii) otherwise, £5 million;”.

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(3) Section 249A and 249AA inserted by S.I. 1994/1935 and amended by S.I. 1996/189, S.I. 1997/936 and S.I. 2000/1430.

(4) Article 257A was inserted by SR (N.I.) 1995/128 and amended by SR (N.I.) 1997/500 and SR (N.I.) 2001/153. Article 257AA was inserted by SR (N.I.) 2001/153 and amended by S.I. 2001/3649.

(5) S.I. 2001/1060; amended by S.I. 2001/2633.

### **Council of Europe Development Bank**

4.—(1) In article 6(1)(a) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(6), for sub-paragraph (xx), substitute—

“(xx) the Council of Europe Development Bank;”.

(2) For paragraph 21 of the Schedule to the Financial Services and Markets Act 2000 (Exemption) Order 2001(7), substitute—

“**21.** The Council of Europe Development Bank.”.

9th May 2002

*Anne McGuire*  
*Graham Stringer*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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(6) S.I. 2001/544; amended by S.I. 2001/3544 and S.I. 2002/682.

(7) S.I. 2001/1201; amended by S.I. 2001/3623.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes a number of miscellaneous amendments to orders made under the Financial Services and Markets Act 2000 (“the Act”).

Article 2 amends the Financial Services and Markets Act 2000 (Financial Promotion) Order 2001 (S.I.2001/1335). Paragraph (2) amends the definition of “publication” in article 2 so as to include systems for the electronic display of information. Paragraph (3) amends article 20 (communications by journalists). This effect of this amendment is that the financial promotion restriction contained in section 21 of the Act does not apply to any communication the content of which is devised by a person acting in the capacity of a journalist, which is contained in a qualifying publication (within the meaning of that article) and which falls within the remit of the Programme Code of the Independent Television Commission. Paragraph (4) amends article 49 (high net worth companies, unincorporated associations etc.) so that it applies to communications made to a body corporate which is in the same group as an undertaking which is of a high net worth. Paragraph (5) amends Schedule 3 to add a new EEA market (OFEX) to the list in Part II and to make changes consequent on the amalgamation of the Alberta Stock Exchange, the Vancouver Stock Exchange and the Winnipeg Stock Exchange to become the Canadian Venture Exchange. Paragraph (6) makes minor amendments to Schedule 4, which concerns communications connected with, or made at the same time as a takeover offer for a relevant unlisted company.

Article 3 amends the Financial Services and Markets Act 2000 (Promotion of Collective Investment Schemes) (Exemptions) Order 2001 (S.I. 2001/1060). Paragraph (2) amends the definition of “publication” in article 2 so as to include systems for the electronic display of information. Paragraph (3) amends article 22 (high net worth companies, unincorporated associations etc.) so that it applies to an undertaking which is in the same group as an undertaking which is of a high net worth.

Article 4 amends the reference to the Council of Europe Resettlement Fund in the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) and the reference to the Council of Europe Resettlement Bank in the Financial Services and Markets Act 2000 (Exemption) Order 2001 (S.I. 2001/1201). This body is now known as the Council of Europe Development Bank.