
STATUTORY INSTRUMENTS

2001 No. 1060

The Financial Services and Markets Act 2000 (Promotion of Collective Investment Schemes) (Exemptions) Order 2001

PART III

OTHER EXEMPTIONS

Sophisticated investors

23.—(1) “Certified sophisticated investor” means a person—

- (a) who has a current certificate in writing or other legible form signed by an authorised person to the effect that he is sufficiently knowledgeable to understand the risks associated with participating in unregulated schemes; and
- (b) who has signed, within the period of twelve months ending with the day on which the communication is made, a statement in the following terms:

“I make this statement so that I can receive promotions which are exempt from the restriction on promotion of unregulated schemes in the Financial Services and Markets Act 2000. The exemption relates to certified sophisticated investors and I declare that I qualify as such. I accept that the schemes to which the promotions will relate are not authorised or recognised for the purposes of that Act. I am aware that it is open to me to seek advice from an authorised person who specialises in advising on this kind of investment”.

(2) If the requirements of paragraph (3) are met, the scheme promotion restriction does not apply to any communication which—

- (a) is made to a certified sophisticated investor; and
- (b) does not invite or induce the recipient to participate in an unregulated scheme operated by the person who has signed the certificate referred to in paragraph (1)(a) or to acquire units from that person.

(3) The requirements of this paragraph are that the communication is accompanied by an indication—

- (a) that it is exempt from the scheme promotion restriction (in section 238 of the Financial Services and Markets Act 2000) on the communication of invitations or inducements to participate in unregulated schemes on the ground that it is made to a certified sophisticated investor;
- (b) of the requirements that must be met for a person to qualify as a certified sophisticated investor;
- (c) that buying the units to which the communication relates may expose the individual to a significant risk of losing all of the property invested;

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- (d) that any individual who is in any doubt about the investment to which the invitation or inducement relates should consult an authorised person specialising in advising on investments of the kind in question.
- (4) For the purposes of paragraph (1)(a), a certificate is current if it is signed and dated not more than three years before the date on which the communication is made.