
STATUTORY INSTRUMENTS

2001 No. 2633

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

2. The Financial Services and Markets Act 2000 (Financial Promotion) Order 2001(1) is amended as follows:

(a) After article 28 insert the following new article—

“One off unsolicited real time communications

28A.—(1) The financial promotion restriction does not apply to an unsolicited real time communication if the conditions in paragraph (2) are met.

(2) The conditions in this paragraph are that—

- (a) the communication is a one off communication;
- (b) the communicator believes on reasonable grounds that the recipient understands the risks associated with engaging in the investment activity to which the communication relates;
- (c) at the time that the communication is made, the communicator believes on reasonable grounds that the recipient would expect to be contacted by him in relation to the investment activity to which the communication relates.

(3) Paragraphs (2) and (3) of article 28 apply in determining whether a communication is a one off communication for the purposes of this article as they apply for the purposes of article 28.”

(b) After article 55 insert the following new article—

“Non-real time communication by members of professions

55A.—(1) The financial promotion restriction does not apply to a non-real time communication which is—

- (a) made by a person (“P”) who carries on Part XX activities; and
- (b) limited to what is required or permitted by paragraphs (2) and (3).

(2) The communication must be in the following terms—

“This [firm/company] is not authorised under the Financial Services and Markets Act 2000 but we are able in certain circumstances to offer a limited range of investment services to clients because we are members of [relevant designated professional body]. We can provide these investment services if they are an incidental part of the professional services we have been engaged to provide.”

(3) The communication may in addition set out the Part XX activities which P is able to offer to his clients, provided it is clear that these are the investment services to which the statement in paragraph (2) relates.

Status: This is the original version (as it was originally made).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

(4) “Part XX activities” means the regulated activities to which the general prohibition does not apply when they are carried on by P by virtue of section 327 of the Act.”

(c) In article 62(1), after “communication by” insert “, or on behalf of”.