
STATUTORY INSTRUMENTS

2002 No. 2157

The Financial Services and Markets Act
2000 (Financial Promotion) (Amendment)
(Electronic Commerce Directive) Order 2002

PART 2

AMENDMENT OF THE FINANCIAL SERVICES AND
MARKETS ACT 2000 (FINANCIAL PROMOTION) ORDER 2001

Interpretation provisions

3.—(1) In article 6, at the end insert—

- “(f) “electronic commerce communication” means a communication, the making of which constitutes the provision of an information society service;
- (g) “incoming electronic commerce communication” means an electronic commerce communication made from an establishment in an EEA State other than the United Kingdom;
- (h) “outgoing electronic commerce communication” means an electronic commerce communication made from an establishment in the United Kingdom to a person in an EEA State other than the United Kingdom.”.

(2) After article 8, insert—

“Interpretation: outgoing electronic commerce communications

8A.—(1) For the purposes of the application of those articles to outgoing electronic commerce communications—

- (a) any reference in article 48(4)(e), 50(1)(a) or (3)(c) or 52(3)(c) to an authorised person includes a reference to a person who is entitled, under the law of an EEA State other than the United Kingdom, to carry on regulated activities in that State;
- (b) any reference in article 68, 72 or 73(2)(b) to Part II of the Public Offers of Securities Regulations 1995(1) includes a reference to provisions corresponding to that Part in the law of an EEA State other than the United Kingdom;
- (c) any reference in article 48 or 49 to an amount in pounds sterling includes a reference to an equivalent amount in another currency.

(2) For the purposes of the application of article 49 to outgoing electronic commerce communications, any reference in section 737 or 264(2) of the 1985 Act (or the equivalent provision in the 1986 Order) to a body corporate or company includes a reference to a body corporate or company registered under the law of an EEA State other than the United Kingdom.

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(3) For the purposes of the application of articles 63 to 66 to outgoing electronic commerce communications, any reference in article 3 to Part II of the Public Offers of Securities Regulations 1995 includes a reference to provisions corresponding to that Part in the law of an EEA State other than the United Kingdom.

(4) For the purposes of the application of article 3 in respect of outgoing electronic commerce communications—

- (a) any reference in section 163(2)(b) of the 1985 Act (or the equivalent provision in the 1986 Order) to a company includes a reference to a company registered under the law of an EEA State other than the United Kingdom;
- (b) any reference in that section to an investment exchange includes a reference to an investment exchange which is recognised as an investment exchange under the law of an EEA State other than the United Kingdom.”.