
STATUTORY INSTRUMENTS

2005 No. 1529

The Financial Services and Markets Act
2000 (Financial Promotion) Order 2005

PART VI

Exempt Communications: Certain Controlled Activities

Sophisticated investors

50.—(1) “Certified sophisticated investor”, in relation to any description of investment, 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 that description of investment; 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 am able to receive promotions which are exempt from the restrictions on financial promotion in the Financial Services and Markets Act 2000. The exemption relates to certified sophisticated investors and I declare that I qualify as such in relation to investments of the following kind [list them]. I accept that the contents of promotions and other material that I receive may not have been approved by an authorised person and that their content may not therefore be subject to controls which would apply if the promotion were made or approved by an authorised person. I am aware that it is open to me to seek advice from someone who specialises in advising on this kind of investment.”.

(1A) The validity of a statement signed in accordance with paragraph (1)(b) is not affected by a defect in the wording of the statement, provided that the defect does not alter the statement's meaning.

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

- (a) is made to a certified sophisticated investor;
- (b) does not invite or induce the recipient to engage in investment activity with the person who has signed the certificate referred to in paragraph (1)(a); and
- (c) relates only to a description of investment in respect of which that investor is certified.

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

- (a) that it is exempt from the general restriction (in section 21 of the Act) on the communication of invitations or inducements to engage in investment activity 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 the content of the communication has not been approved by an authorised person and that such approval is, unless this exemption or any other exemption applies, required by section 21 of the Act;
 - (d) that reliance on the communication for the purpose of engaging in any investment activity may expose the individual to a significant risk of losing all of the property invested or of incurring additional liability;
 - (e) that any person who is in any doubt about the investment to which the communication 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.

Changes to legislation:

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, Section 50.