

Chapter 3

Financial promotions and communications with customers

3.2 Financial promotion general guidance

3.2.1 **G** The *rules* in this chapter adopt various concepts from the restriction on financial promotions by *unauthorised persons* in section 21(1) of the *Act* (Restrictions on financial promotion). *Guidance* on that restriction and the communications which are exempt from it is contained in ■ PERG 8 (Financial promotion and related activities) and that *guidance* will be relevant to interpreting these *rules*. In particular, *guidance* on the meaning of:

- (1) 'communicate' is in ■ PERG 8.6 (Communicate); and
- (2) 'invitation or inducement' and 'engage in investment activity' (two elements which, with 'communicate', make up the definition of 'financial promotion') is in ■ PERG 8.4 (Invitation or inducement).

3.2.2 **G** The Privacy and Electronic Communications (EC Directive) Regulations 2003 apply to unsolicited telephone calls, fax messages and electronic mail messages for direct marketing purposes. The Information Commissioner's Office has produced guidance on the Regulations.

Meaning of "prominent"

3.2.3 **G** For the purposes of this chapter, information or a statement included in a *financial promotion* or communication will not be treated as prominent unless it is presented, in relation to the other content of the *financial promotion* or communication, in such a way that it is likely that the attention of the average *customer* to whom the *financial promotion* or communication is directed would be drawn to it.

Approving financial promotions: permission

3.2.4 **G**

- (1) The effect of section 55NA of the *Act* is that a *firm* is unable to approve a *financial promotion* unless:
 - (a) the *firm* is a *permitted approver* in relation to the *financial promotion*; or
 - (b) an *approver permission exemption* applies.
- (2) ■ SUP 6A contains *guidance* on applying for *approver permission*.