

## Chapter 7

Periodical publications, news services and broadcasts: applications for certification

## 7.5 When is it appropriate to apply for a certificate?

**7.5.1** **G** To decide whether the exclusion in article 54 applies, three assessments need to be made:

- (1) first, an assessment whether the vehicle for giving the advice is a newspaper, journal, magazine or other periodical publication, a service comprising regularly updated news or information or a service consisting of the broadcast or transmission of television or radio programmes;
- (2) second, an assessment of the purpose or purposes of any particular publication or service; and
- (3) third, an assessment of the relative significance of each purpose compared with any others.

**7.5.2** **G** Because opinions may differ in circumstances close to the borderline, giving rise to doubt as to whether or not the exclusion applies, the *Regulated Activities Order* makes provision for a certification process. The purpose of this process is not to provide certification for every publication or service to which the exclusion in article 54 applies.

**7.5.3** **G** In many cases it will be clear whether or not a publication or service benefits from the exclusion. A publication or service may provide reports on such a wide range of matters that it is not possible to say that it has any purpose other than to provide coverage of a wide range of matters. Alternatively, it may be clear that the principal purpose of a publication or service is something other than those specified in the article 54 exclusion. Examples of cases where, in the FCA's view, the exclusion is capable of applying include:

- (1) national or local newspapers providing the normal range of non-financial news and coverage of other matters (such as sports, arts and leisure) and which simply contain financial journalism (such as reports on particular *investments* or markets) as one element of their all-round coverage;
- (2) weekly or monthly journals aimed at a particular subject (such as computing or sport) but which have some coverage of, or promotional material relating to, *investments* and financial matters;
- (3) websites which provide financial news or information;

- (4) closed user group communication systems specialising in financial or *investment* matters; and
- (5) television or radio channels dedicated to consumer affairs which devote a small number of programmes to financial planning.

**7.5.4**

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It is only where there are grounds to think that there is a significant doubt as to the principal purpose of a publication or service that the question of whether or not to apply to the *FCA* for a certificate under article 54 of the *Regulated Activities Order* is expected to arise. For example, this may happen where a publication or service has several significant purposes and one of them is a disqualifying purpose referred to in the exclusion in article 54. It may on occasion be difficult to assess the relative importance of the purposes compared with each other, particularly given that over time there will be a variation in the content of the publication or service. In such cases, an application for a certificate would be appropriate.