

Chapter 8

Financial promotion and related activities

8.3 Financial promotion

- 8.3.1** **G** The basic restriction on the *communication of financial promotions* is in section 21(1) of the *Act*. Sections 21(2) and (5) disapply the restriction in certain circumstances. Their combined effect is that a *person* must not, in the course of business, *communicate* an invitation or inducement to *engage in investment activity* unless:
- (1) he is an *authorised person*; or
 - (2) the content of the communication is *approved* for the purposes of section 21 by an *authorised person*; or
 - (3) the communication is exempt under an order made by the Treasury under section 21(5) – the *Financial Promotion Order* (as amended).
- 8.3.1A** **G** The effect of section 21(2A) of the *Act* is that an *authorised person* is unable to *approve* the content of a communication for the purposes of section 21 unless:
- (1) the *firm* is a *permitted approver* in relation to the *financial promotion*; or
 - (2) an *approver permission exemption* applies.
- 8.3.2** **G** Section 21 of the *Act* does not itself (other than in its heading and side-note) refer to a '*financial promotion*' but rather to the *communication* of 'an invitation or inducement (a) to *engage in investment activity* or (b) to *engage in claims management activity*'. References in this *guidance* to a *financial promotion* mean an invitation or inducement to *engage in investment activity* or to *engage in claims management activity*.
- 8.3.3** **G** Section 21 of the *Act* contains a number of key expressions or phrases which will determine whether or not it will apply. These are:
- (1) 'invitation or inducement' (see ■ PERG 8.4);
 - (2) 'in the course of business' (see ■ PERG 8.5);
 - (3) '*communicate*' (see ■ PERG 8.6);
 - (4) '*engage in investment activity*' (see ■ PERG 8.7);

(4A) 'engage in claims management activity' (see ■ PERG 8.7A); and

(5) 'having an effect in the *United Kingdom*' (see ■ PERG 8.8).

8.3.4 **G** The *FCA's* views as to the meaning of these are explained in ■ PERG 8.4 to ■ PERG 8.8.

8.3.5 **G** In addition, this *guidance* deals with other factors such as when the exemptions in the *Financial Promotion Order* can be applied, including the exemptions relating to territorial scope and one-off *financial promotions*.