

## Chapter 8

# Financial promotion and related activities

## 8.17A Financial promotions concerning insurance distribution activities

**8.17A.1** G The application of section 21 of the *Act* and of exemptions in the *Financial Promotion Order* to invitations or inducements about *insurance distribution activities* will vary depending on the type of activity. The implementation of the *IDD* has not led to any changes in the definitions of a *controlled investment* or a *controlled activity* under the *Financial Promotion Order*. So:

- (1) rights under any *contract of insurance* are a *controlled investment*;
- (2) rights to or interests in rights under *life policies* are *controlled investments* but rights to or interests in rights under other *contracts of insurance* are not;
- (3) the activities of:
  - (a) *dealing in investments as agent*;
  - (b) *arranging (bringing about) deals in investments*;
  - (c) *making arrangements with a view to transactions in investments*;
  - and
  - (d) *advising on investments*;
 where they relate to *contracts of insurance*, are *controlled activities* only where the *contract of insurance* is a *life policy*; and
- (4) the activity of *assisting in the administration and performance of a contract of insurance* is not a *controlled activity*.

**8.17A.2** G This means that an *insurance intermediary* will not be *communicating a financial promotion*:

- (1) where the only activity to which the promotion relates is *assisting in the administration and performance of a contract of insurance*; or
- (2) purely by reason of his inviting or inducing *persons* to make use of his advisory or *arranging* services where they relate only to *general insurance contracts* or *pure protection contracts* or both.

But as regards (2), an intermediary will be *communicating a financial promotion* if he is also inviting or inducing *persons* to enter into a *contract of insurance*. This is because the making and performance of the contract by the insurer will be a *controlled activity* (of *effecting and carrying out a contract of insurance*). *Insurance intermediaries* will, however, be able to use the exemptions in Part V of the *Financial Promotion Order* (see ■ PERG 8.13

(Exemptions applying to financial promotions concerning deposits and certain contracts of insurance) where they promote a *general insurance contract* or a *pure protection contract*. Where an *insurance intermediary* is promoting *life policies*, he will be able to use any exemptions in Part VI of the *Financial Promotion Order* that apply to a *contractually based investment*.