

Chapter 8

Financial promotion and related activities



8.26 The investment must be a
particular investment

- 8.26.1 **G** For the purposes of article 53(1), advice must relate to a particular *investment* – generic or general advice is not covered. Generic or general advice may, however, be a *financial promotion* (see ■ PERG 8.4).
- 8.26.2 **G** Generic advice will not be caught by article 53(1). Examples of generic advice may include:
- (1) financial planning;
 - (2) advice on the merits of investing in Japan rather than Europe;
 - (3) advice on the merits of investing in investment trusts as opposed to unit trusts or unit-linked insurance; and
 - (4) advice on the merits of investing offshore, or in fixed income rather than floating rate bonds.
- 8.26.3 **G** ■ PERG 8.30A includes material about guiding a *person* through a decision tree.
- 8.26.4 **G** Examples of a particular investment include:
- (1) *securities* – *shares* in ABC plc, Treasury 10% 2001 stock, XYZ plc *warrants*;
 - (2) *units* in *collective investment schemes* - ABC smaller companies fund, XYZ Growth Trust;
 - (3) exchange-traded derivatives - LME Copper Grade A 3 months, LIFFE Japanese Government bond, ABC plc traded options;
 - (4) contractual *investments*, for example, *futures* and other contracts having specified terms and conditions such as duration, volume, interest rate or price and which are to be entered into with a particular *person*;
 - (5) *contracts of insurance*, which are both products and contractual *investments*; so a particular *investment* would include:
 - (a) the ABC Life Personal Pension or the XYZ Life Guaranteed Bond;
 - or

8.26.5

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(b) a contract having essential terms and provider specified – for instance, a 25 year with-profits low cost endowment contract covering husband and wife and to be issued by XYZ Life Plc.

- (1) Although giving generic advice is generally not a *regulated activity*, if it is given in the course of or in preparation for a *regulated activity* it can form part of that *regulated activity*.
- (2) For example, if a *firm* gives generic advice (for instance about the merits of investing in Japan rather than Europe) and then goes on to identify a particular Japanese *share*, the generic advice will form part of the *regulated activity* of *advising on investments* (except *P2P agreements*).
- (3) Another example is a *firm* that provides generic advice to a customer or a potential customer prior to or in the course of carrying on the *regulated activity* of *arranging (bringing about) deals in investments* for the customer. That generic advice is part of that *regulated activity* of *arranging (bringing about) deals in investments*.