

## Chapter 8

# Financial promotion and related activities

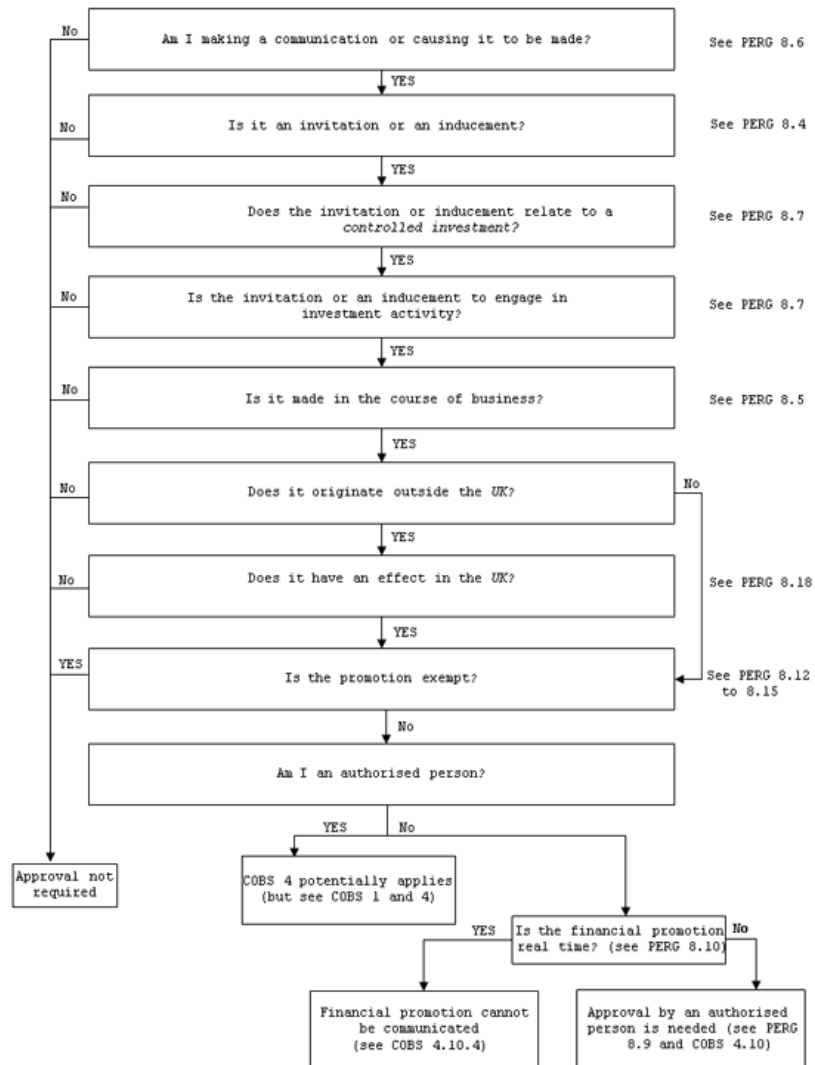
8.36 Illustrative tables

Financial Promotions: flowchart

8.36.1

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This flowchart sets out the matters which a *person* will need to consider to see if the restriction in section 21 of the *Act* applies to his communications. It is referred to in ■ PERG 8.2.5 G.



Controlled activities and controlled investments

8.36.2

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These tables list the activities that are *controlled activities* and the *investments* that are *controlled investments* under the *Financial Promotion Order*. It is referred to in ■ PERG 8.7.2 G.

**8.36.3** **G** Table Controlled activities

1.	Accepting deposits
2.	Effecting and carrying out contracts of insurance
3.	Dealing in securities, structured deposits and contractually based investments
4.	Arranging deals in investments
4A.	Operating a multilateral trading facility
4B.	Credit broking
4C.	Operating an electronic system in relation to lending
4D.	Operating an organised trading facility
5.	Managing investments
5A.	Debt adjusting
5B.	Debt counselling
6.	Safeguarding and administering investments
7.	Advising on investments
8.	Advising on syndicate participation at Lloyd's
9.	Providing funeral plan contracts
10.	Providing qualifying credit
11.	Arranging qualifying credit etc
12.	Advising on qualifying credit etc
12A.	Providing relevant consumer credit
12B.	Providing consumer hire
13.	Providing a home reversion plan
14.	Arranging a home reversion plan
15.	Advising on a home reversion plan
16.	Providing a home purchase plan
17.	Arranging a home purchase plan
18.	Advising on a home purchase plan
18A.	Providing a regulated sale and rent back agreement
18B.	Arranging a regulated sale and rent back agreement
18C.	Advising on a regulated sale and rent back agreement
19.	Agreeing to do anything in 3 to 18C above

**8.36.4** **G** Table Controlled investments

1.	A deposit.
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2.	Rights under a contract of insurance.
3.	Shares etc.
4	Instruments creating or acknowledging indebtedness (referred to in the Glossary as debentures and alternative debentures).
5.	Government and public securities.
6.	Instruments giving entitlement to investments (referred to in the Glossary as warrants).
7.	Certificates representing certain securities.
8.	Units in a collective investment scheme.
9.	Rights under a stakeholder pension scheme or a <i>personal pension scheme</i> .
10.	Options.
11.	Futures.
12.	Contracts for differences etc.
12A.	Emission allowances
13.	Lloyd's syndicate capacity and syndicate membership.
14.	Funeral plan contracts
15.	Agreements for qualifying credit
16.	Rights under a home reversion plan.
17.	Rights under a home purchase plan.
17A.	Rights under a regulated sale and rent back agreement
17B.	Rights under a relevant credit agreement (including rights under a paragraph 4C agreement)
17C.	Rights under a consumer hire agreement
18.	Rights to or interests in anything falling under 1 to 14 above.

**Application of exemptions to forms of financial promotion**.....

**8.36.5** G This table identifies the types of *financial promotion* to which each exemption in the *Financial Promotions Order* applies. It is referred to in ■ PERG 8.11.2 G and ■ PERG 8.14.1 G.

**8.36.6** G Table Application of Exemptions to Forms of Promotions

Financial Promotion Order		Applies to		
Article No.	Title and PERG 8 reference (where applicable)	Unsolicited real time	Solicited real time	Non-real time (solicited or unsolicited)

Financial Promotion Order		Applies to		
12	Communications to overseas recipients (8.12.2G)	* <sup>1</sup>	*	*
13	Communications from customers and potential customers (8.12.9G)	*	*	*
14	Follow up non-real time communications and solicited real time communications (8.12.10G)		*	*
15	Introductions (8.12.11G)	*	*	*
16	Exempt persons (8.12.12G)	* <sup>2</sup>	* <sup>3</sup>	* <sup>3</sup>
17	Generic promotions (8.12.14G and 8.21.4G)	*	*	*
17A	Communications caused to be made or directed by unauthorised persons (8.6.7AG)	*	*	*
18	Mere conduits (8.12.18G)	*	*	*
18A	Outgoing electronic commerce communications: mere conduits, caching and hosting (8.12.18G)	*	*	*
19	Investment professionals (8.12.21G and 8.21.5G)	*	*	*
20	Communications by journalists (8.12.23G)			*
20A	Promotion broadcast by company director etc (8.12.23G and 8.21.6G)	*	*	*
20B	Incoming electronic commerce communications (8.12.38G)	*	*	*
22	Deposits : non-real time communications (8.13)			*
23	Deposits : real time communications (8.13)	*	*	
24	Relevant insurance activity : non-real time communications (8.13)			*
25	Relevant insurance activity : non-real time communications : reinsurance and large risks (8.13)			*
26	Relevant insurance activity : real time communications (8.13)	*	*	
28	One-off non-real time communications and solicited real time communications (8.14.3G)		*	*
28A	One-off unsolicited real time communications (8.14.11G)	*		

Financial Promotion Order		Applies to		
28B	Real time communications: introductions in connection with qualifying credit (8.17.12G)	*	*	
29	Communications required or authorised by enactments	*	*	*
30	Overseas communicators: solicited real time communications (8.14.15G)		*	
31	Overseas communicators: non-real time communications to previously overseas customers (8.14.17G)			*
32	Overseas communicators: unsolicited real time communications to previously overseas customers (8.14.16G)	*		
33	Overseas communicators: unsolicited real time communications to knowledgeable customers (8.14.16G)	*		
34	Governments, central banks etc		*	*
35	Industrial and provident societies		*	*
36	Nationals of the EEA States other than United Kingdom (8.14.18G)		*	*
37	Financial markets		*	*
38	Persons in the business of placing promotional material	*	*	*
39	Joint enterprises (8.14.19G)	*	*	*
40	Participants in certain recognised collective investment schemes		*	*
41	Bearer instruments: promotions required or permitted by market rules (8.14.42G)		*	*
42	Bearer instruments: promotions to existing holders (8.14.42G)		*	*
43	Members and creditors of certain bodies corporate (8.14.41G and 8.21.8G)		*	*
44	Members and creditors of open-ended investment companies		*	*
45	Group companies	*	*	*
46	Qualifying credit to bodies corporate (8.17.10G)	*	*	*

Financial Promotion Order		Applies to		
46A	Promotions of credit etc. for business purposes (8.17-A.10G)	*	*	*
47	Persons in the business of disseminating information (8.21.10G)	*	*	*
48	Certified high net worth individuals (8.14.21G)		*	*
49	High net worth companies, unincorporated associations etc (8.14.25G)	*	*	*
50	Sophisticated investors (8.14.27G)	*	*	*
50A	Self-certified sophisticated investors (8.14.28AG)	*	*	*
51	Associations of high net worth or sophisticated investors (8.14.29G)		*	*
52	Common interest group of a company (8.14.30G)		*	*
53	Settlors, trustees and personal representatives	*	*	*
54	Beneficiaries of trust, will or intestacy	*	*	*
55	Communications by members of professions (8.15.1G)	*	*	
55A	Non-real time communication by members of the professions. (8.15.5G)			*
56	Remedy following report by Parliamentary Commissioner for Administration	*	*	*
57	Persons placing promotional material in particular publications	*	*	*
58	Acquisition of interest in premises run by management companies		*	*
59	Annual accounts and directors' report (8.21.11G)	*	*	*
60	Participation in employee shares schemes	*	*	*
61	Sale of goods and supply of services		*	*
62	Sale of body corporate (8.14.35G)	*	*	*
64	Takeovers of relevant unlisted companies	*	*	*
65	Takeovers of relevant unlisted companies: warrants etc	*	*	*

Financial Promotion Order		Applies to		
66	Takeovers of relevant unlisted companies: application forms	*	*	*
67	Promotions required or permitted by market rules (8.21.13G)		*	*
68	Promotions in connection with admission to certain EEA markets (8.21.16G)		*	*
69	Promotions of securities already admitted to certain markets (8.21.17G)		*	*
70	Promotions included in listing particulars etc (8.21.20G)			*
71	Material relating to prospectus for public offer of unlisted securities			*
72	Pension products offered by employers (8.14.40AG)	*	*	*
72A	Pension product offers communicated to employees by third parties (8.14.40AAG)	*	*	*
72B	Insurance product offers communicated to employees by employers (8.14.40ABG)	*	*	*
72C	Insurance products offers communicated to employees by third parties (8.14.40ACG)	*	*	*
72D	Staff mortgage offers communicated to employees by employers (8.14.40ADG)	*	*	*
72E	Staff mortgage offers communicated to employees by third parties (8.14.40AEG)	*	*	*
72F	Credit agreements offered to employees by employers	*	*	*
73	Advice centres (8.14.40B)	*	*	*
<sup>1</sup> in limited circumstances only – see article 12(2) of the <i>Financial Promotion Order</i> <sup>2</sup> for the purpose of article 16 (2) only <sup>3</sup> for the purpose of article 16 (1) only				