

**PERIMETER GUIDANCE (HANDBOOK AMENDMENT NO 2) INSTRUMENT 2005****Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power); and
  - (2) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on 1 October 2005.

**Amendments to the Handbook**

- D. The modules of the FSA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2) below:

(1)	(2)
Glossary of definitions	Annex A
Conduct of Business sourcebook (COB)	Annex B
Insurance: Conduct of Business sourcebook (ICOB)	Annex C
Mortgage: Conduct of Business sourcebook (MCOB)	Annex D

**Citation**

- E. This instrument may be cited as the Perimeter Guidance (Handbook Amendment No 2) Instrument 2005.

By order of the Board  
15 September 2005

## **Annex A**

### **Amendments to the Glossary of definitions**

In this Annex underlining indicates new text and striking through indicates deleted text.

*Financial Promotion Order* the Financial Services and Markets Act 2000 (Financial Promotion) Order ~~2001 (SI 2005/1335)~~ 2005 (SI 2005/1529).

## Annex B

### Amendments to the Conduct of Business sourcebook

In this Annex underlining indicates new text and striking through indicates deleted text.

- 3.3.2 G (1) ...
- (2) ... the exemption for *incoming electronic commerce communications* (see *PERG 8.12.38G* (Incoming electronic commerce communications (article 20B))).
- ...
- ...
- 3.3.6 R (1) ...
- (4) ...
- (a) ...
- (c) the *financial promotion* is not referred to in, or directly accessible from, any other *financial promotion* which is made to a *person* or directed at *persons* in the *United Kingdom* by ~~or on behalf of~~ the same *person*;
- ...
- ...

COB 3 G An overview of some of the main exemptions contained in the Financial  
Ann 1 Promotion Order

Article no. and name of exemption	Type of promotion: Unsolicited real time, solicited real time, non-real time	Controlled activity/controlle d investment	Other conditions
...			
51 Associations of high net worth or sophisticated investors	Solicited real time Non-real time	Note 1	<p>(1) Made to an association, <u>or to a member of an association</u>, the membership of which the <i>person</i> making the <i>financial promotion</i> believes on reasonable grounds comprises wholly or predominantly <i>persons</i> who are certified high net worth individuals within article 48, high net worth persons within article 49(2)(a) to (d) <del>and</del> certified sophisticated investors within article 50 <u>and self-certified sophisticated investors within article 50A</u>; and</p> <p>(2) relates only to an <i>investment</i> under the terms of which a <i>person</i> cannot incur a liability or obligation to pay or contribute more than he commits by way of <i>investment</i></p>
...			
<u>72 Pension products offered by employers</u>	<u>All</u>	<u>Note 5</u>	<p><u>Made by an employer to an employee about a <i>group personal pension scheme</i> or a <i>stakeholder pension scheme</i> where:</u></p> <p><u>(1) the employer will make a contribution to the scheme in the event of the employee joining</u></p>

			<p><u>the scheme and the <i>financial promotion</i> informs the employee of this fact;</u></p> <p><u>(2) the employer has not and will not receive any direct financial benefit from the scheme;</u></p> <p><u>(3) the employer informs the employee in writing prior to his becoming a member of the scheme of the amount of his contributions to the scheme in respect of that employee; and</u></p> <p><u>(4) where the communication is a <i>non-real time financial promotion</i>, the employee is informed of his right to seek advice from a regulated person.</u></p>
<u>73 Advice centres</u>	<u>All</u>	<u>Note 6</u>	<u>Made by an adviser for or employee of an advice centre (as defined in article 73(3)) in the course of carrying out his duties as such.</u>
<p><b>Notes to Annex 1G</b></p> <p>References in these notes to paragraphs are to paragraphs of Schedule 1 to the <i>Financial Promotion Order</i>. The <i>controlled investments</i> italicised in these notes are defined in the same way in both the <i>Financial Promotion Order</i> and the <i>Regulated Activities Order</i>.</p>			
<p>...</p> <p><u>Note 5:</u></p> <p><u>The <i>controlled activities</i> specified in Note 1 carried on in relation to either:</u></p>			
<u>(1)</u>	<u><i>life policies</i> (paragraph 13); or</u>		
<u>(2)</u>	<u><i>stakeholder pension schemes</i> (paragraph 20).</u>		
<p><u>In both cases, only where relating to a <i>group personal pension scheme</i> or <i>stakeholder pension scheme</i> that the employer is promoting to his employees.</u></p>			

Note 6:

The controlled activities specified in Note 1 carried on in relation to:

<u>(1)</u>	<u>life policies (paragraph 13); or</u>
<u>(2)</u>	<u>qualifying credit (paragraph 26); or</u>
<u>(3)</u>	<u>shares (paragraph 14); or</u>
<u>(4)</u>	<u>debentures (paragraph 15); or</u>
<u>(5)</u>	<u>government and public securities (paragraph 16); or</u>
<u>(6)</u>	<u>units (paragraph 19) in a collective investment scheme; or</u>
<u>(7)</u>	<u>any combination of (1) to (6).</u>

In the case of (3), (4), (5) and (6), only where held under a Child Trust Fund (CTF).

## Annex C

### Amendments to the Insurance: Conduct of Business sourcebook

In this Annex underlining indicates new text and striking through indicates deleted text.

- 3.4.5 R (1) ...
- (4) (a) ...
- (c) *the non-investment financial promotion* is not referred to in, or directly accessible from, any other *non-investment financial promotion* which is made to a *person* or directed at *persons* in the *United Kingdom* by ~~or on behalf of~~ the same *person*;

## Annex D

### Amendments to the Mortgage: Conduct of Business sourcebook

In this Annex underlining indicates new text and striking through indicates deleted text.

- 3.3.7 R (1) ...
- (4) ...
- (a) ...
- (c) the *qualifying credit promotion* is not referred to in, or directly accessible from, any other *qualifying credit promotion* which is made to a *person* or directed at *persons* in the *United Kingdom* by ~~or on behalf of~~ the same *person*;
- 4.8.2 G (1) ... a *firm* should have regard to the *guidance* on scripted questions in ~~AUTH App~~ PERG 4.6.21G to 4.6.2425G.