
STATUTORY INSTRUMENTS

2001 No. 544

The Financial Services and Markets Act
2000 (Regulated Activities) Order 2001

PART II

SPECIFIED ACTIVITIES

CHAPTER XII

Advising on Investments

The activity

Advising on investments

53. Advising a person is a specified kind of activity if the advice is—

- (a) given to the person in his capacity as an investor or potential investor, or in his capacity as agent for an investor or a potential investor; and
- (b) advice on the merits of his doing any of the following (whether as principal or agent)—
 - (i) buying, selling, subscribing for or underwriting a particular investment which is a security or a contractually based investment, or
 - (ii) exercising any right conferred by such an investment to buy, sell, subscribe for or underwrite such an investment.

Exclusions

Advice given in newspapers etc.

54.—(1) There is excluded from article 53 the giving of advice in writing or other legible form if the advice is contained in a newspaper, journal, magazine, or other periodical publication, or is given by way of a service comprising regularly updated news or information, if the principal purpose of the publication or service, taken as a whole and including any advertisements or other promotional material contained in it, is neither—

- (a) that of giving advice of a kind mentioned in article 53; nor
- (b) that of leading or enabling persons to buy, sell, subscribe for or underwrite securities or contractually based investments.

(2) There is also excluded from article 53 the giving of advice in any service consisting of the broadcast or transmission of television or radio programmes, if the principal purpose of the service, taken as a whole and including any advertisements or other promotional material contained in it, is neither of those mentioned in paragraph (1)(a) and (b).

(3) The Authority may, on the application of the proprietor of any such publication or service as is mentioned in paragraph (1) or (2), certify that it is of the nature described in that paragraph, and may revoke any such certificate if it considers that it is no longer justified.

(4) A certificate given under paragraph (3) and not revoked is conclusive evidence of the matters certified.

Other exclusions

55. Article 53 is also subject to the exclusions in articles 66 (trustees etc.), 67, (profession or non-investment business), 68 (sale of goods and supply of services), 69 (groups and joint enterprises), 70 (sale of body corporate) and 72 (overseas persons).