

FINANCIAL SUPERVISION ACT 1988

FINANCIAL SUPERVISION (OVERSEAS FUNDS) (EXEMPTION) ORDER 2003

Approved by Tynwald 21st May 2003

Coming into operation 1st May 2003

In exercise of the powers conferred on the Treasury by section 11(11) of the Financial Supervision Act 1988 (a) and of all other powers enabling it in that behalf, the following Order is hereby made –

Citation and commencement

1. This Order may be cited as the Financial Supervision (Overseas Funds) (Exemption) Order 2003 and shall come into operation on 1st May 2003.

Interpretation

2. In this Order –

“**the Act**” means the Financial Supervision Act 1988;

“**fund administrator**” means a person (other than the manager) who provides administration services to collective investment schemes and who is either –

- (a) the holder of a licence issued under the Investment Business Act 1991(b) which specifically permits the provision of administration services to an overseas fund; or
- (b) the holder of a licence issued under the Banking Act 1998 (c) which by its terms does not prevent him from undertaking that activity;

“**manager**” means a holder of a licence issued under the Investment Business Act 1991(b) which specifically permits the management of an overseas fund;

(a) 1988 c.16 (b) 1991 c.18 (c) 1998 c.4

“overseas fund” means a scheme that is:-

- (a) constituted outside the Island; or
- (b) in the case of a company but without prejudice to the generality of paragraph (a), incorporated outside the Island.

Exemption : new funds

3. (1) This article applies in respect of an overseas fund (whenever constituted or incorporated) –
- (a) which was not an international scheme immediately before the date on which this Order came into operation; and
 - (b) which, on or after that date, enters into an agreement with a manager or fund administrator for the management or administration of the overseas fund,
- (in this article referred to as “a new fund”).
- (2) Subject to article 5, section 11(1) to (6) of the Act does not apply to a new fund.

Exemption : existing funds

4. (1) This article applies in respect of all overseas funds other than those to which article 3 applies (in this article referred to as “existing funds”).
- (2) Subject to article 5, section 11(1) to (6) of the Act does not apply to an existing fund if the manager or, as the case may be, fund administrator gives written notice to the Commission that this paragraph will apply in respect of the fund.
- (3) Notwithstanding the provisions of the Financial Supervision (Professional Investors Fund) (Exemption) Order 1999 and the Financial Supervision (Experienced Investors Fund) (Exemption) Order 1999, professional investor funds and experienced investor funds shall be treated as funds to which this article applies and if a notice is given under paragraph (2) in respect of such a fund, those Orders shall cease to apply in respect of that fund.

Exemption : cessation

5. (1) This article applies in respect of all overseas funds that are exempt from section 11(1) to (6) of the Act by virtue of article 3(2), 4(2) or 6(2).
- (2) The exemptions provided by those articles will not apply to a fund if –


- (a) the manager or, as the case may be, fund administrator gives written notice to the Commission that –
 - (i) article 3(2), 4(2) or 6(2), as the case requires, does not apply in respect of the fund; and
 - (ii) the scheme is becoming an international scheme to which section 11 applies; and
- (b) at the same time, provides the Commission with a copy of the documents constituting the scheme which comply with the requirements of section 11 and any other enactment having effect under that section.

Exemption after cessation

6. (1) This article applies in respect of all overseas funds that have ceased to be exempt from section 11(1) to (6) of the Act by virtue of article 5.

(2) Subject to article 5, section 11(1) to (6) of the Act does not apply to a fund to which this article applies if the manager or, as the case may be, fund administrator gives written notice to the Commission that this paragraph will apply in respect of the fund.

Made 14th April 2003



Minister for the Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides an exemption under section 11 of the Financial Supervision Act 1988 for collective investment schemes which are managed or administered from the Isle of Man and defined as being overseas funds within the interpretation of this Order. Exemption from section 11 is dependent on the conditions specified.