



Jersey

## **FINANCIAL SERVICES (INVESTMENT BUSINESS (FUND SERVICES BUSINESS EXEMPTION)) (JERSEY) ORDER 2007**

*Made*

*13th November 2007*

*Coming into force*

*14th November 2007*

**THE MINISTER FOR ECONOMIC DEVELOPMENT**, in pursuance of Articles 4 and 42 of the Financial Services (Jersey) Law 1998<sup>1</sup> and on the recommendation of the Jersey Financial Services Commission, orders as follows –

### **1 Schedule 2 amended**

In the Financial Services (Jersey) Law 1998, in Schedule 2, in Part 1, for paragraph 3 there shall be substituted the following paragraphs –

#### **“3 Certain persons regulated under the Collective Investment Funds (Jersey) Law 1988**

1. The carrying on, by a company issuing units that is a recognized fund, of the activities of a functionary, within the meaning of the Schedule to the Collective Investment Funds (Jersey) Law 1988<sup>2</sup>, under the functionary’s permit granted under that Law.
2. The carrying on by a person (other than a company issuing units within the meaning of the Collective Investment Funds (Jersey) Law 1988), in relation to a recognized fund, of the activities of a functionary, within the meaning of the Schedule to that Law, under the functionary’s permit granted under that Law.
3. The carrying on, by a company issuing units that is an unclassified fund, of the activities of a functionary, within the meaning of the Schedule to the Collective Investment Funds (Jersey) Law 1988, under the functionary’s permit granted under that Law.

**3A Persons registered to carry on fund services business**

The carrying on of fund services business by a person who is registered under this Law to do so.

**3B Certain overseas distributors**

(1) The following activities –

- (a) a specified transaction when carried out by an overseas person;
- (b) a specified transaction when carried out with an overseas person; or
- (c) the publication in Jersey by an overseas person of an advertisement that –
  - (i) complies with an Order made under Article 31 of this Law, and
  - (ii) solicits a person in Jersey to enter into a specified transaction.

(2) In this paragraph ‘overseas person’ means a person who –

- (a) has no place of business in Jersey from which he or she carries on fund services business in or from Jersey; and
- (b) is not a company incorporated in Jersey.

(3) Except as otherwise provided, in this paragraph ‘specified transaction’ means a transaction amounting to fund services business by virtue of which an overseas person –

- (a) deals with a person in Jersey;
- (b) acts as an agent for a person in Jersey;
- (c) carries out discretionary management activities for a person in Jersey; or
- (d) provides advice to a person in Jersey.

(4) A transaction is only a ‘specified transaction’ for the purposes of this paragraph if the transaction came about by virtue of –

- (a) an approach made by or on behalf of the person in Jersey to the overseas person that –
  - (i) was not solicited by the overseas person, or
  - (ii) was solicited by the overseas person by an advertisement that complied with any Order made under Article 31 of this Law; or
- (b) an approach made by the overseas person by an advertisement that complied with any Order made under Article 31 of this Law.

(5) A transaction is only a ‘specified transaction’ for the purposes of this paragraph if –

- (a) the overseas person has his or her head office in a country where he or she is supervised in respect of fund services

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- business by a relevant supervisory authority in that country;  
and
  - (b) the overseas person when dealing with the person in Jersey does so in accordance with the relevant standards expected of registered persons as specified in any Code of Practice in relation to fund services business that is issued by the Commission.
- (6) A transaction is only a ‘specified transaction’ for the purposes of this paragraph if it relates to any of the following –
- (a) an authorized investment scheme within the meaning of the European Communities (Undertakings for Collective Investment in Transferable Securities) Regulations 1989 of the United Kingdom;
  - (b) an authorized unit trust, or authorized open-ended investment company, within the meaning of the Financial Services and Markets Act 2000 of the United Kingdom;
  - (c) a collective investment fund classified as a Class A Scheme under the Protection of Investors (Bailiwick of Guernsey) Law, 1987 of the Bailiwick of Guernsey;
  - (d) a collective investment fund that is authorized under the Financial Supervision Act 1988 of the Isle of Man.
- (7) A transaction that requires the overseas person to act as an agent for the person in Jersey in respect of an agreement with another person is only a ‘specified transaction’ for the purposes of this paragraph if –
- (a) that other person is outside Jersey; or
  - (b) if that other person is in Jersey, if the agreement came about by virtue of –
    - (i) an approach made by or on behalf of the first person to that other person in Jersey that –
      - (A) was not solicited by that other person in Jersey, or
      - (B) was solicited by that other person in Jersey by an advertisement that complied with any Order made under Article 31 of this Law; or
    - (ii) an approach made by that other person in Jersey by an advertisement that complied with any Order made under Article 31 of this Law.”.

**2 Citation and commencement**

- (1) This Order may be cited as the Financial Services (Investment Business (Fund Services Business Exemption)) (Jersey) Order 2007.
- (2) This Order shall come into force on the day on which the Financial Services (Amendment of Law) (No. 2) (Jersey) Regulations 2007<sup>3</sup> come into force.

**SENATOR P.F.C. OZOUF**

*Minister for Economic Development*

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- <sup>1</sup> *chapter 13.225*  
<sup>2</sup> *chapter 13.100*  
<sup>3</sup> *R&O.147/2007*