

Investment Business Order 2004

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Statutory Document No. 673/04



**INVESTMENT BUSINESS ACT 1991**

**INVESTMENT BUSINESS ORDER 2004**

*Approved by Tynwald 21 October 2004*

*Coming into operation 01 December 2004*

In exercise of the powers conferred on the Treasury by section 1(2) of the Investment Business Act 1991<sup>1</sup>, and all other powers enabling it in that behalf, the following Order is hereby made:-

**Citation Commencement and Revocation**

1. (1) This Order may be cited as the Investment Business Order 2004 and shall come into operation on 01 December 2004.
- (2) The Investment Business Order 1991<sup>2</sup> is revoked.

**Activities Constituting Investment Business**

2. (1) The activities specified in Schedule 1 constitute investment business for the purposes of the Investment Business Act 1991.
- (2) Part 1 of Schedule 1 is subject to the exclusions in Part II of that Schedule.

**Definition of "investments"**

3. For the purposes of the Investment Business Act 1991 and this Order, "investments" means any asset, right or interest falling within Schedule 2.

**Interpretation**

4. Schedule 3 shall have effect for the interpretation of this Order.

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<sup>1</sup> 1991 c.18

<sup>2</sup> GC 366/91

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**SCHEDULE 1****Article 2****INVESTMENT BUSINESS****PART I****ACTIVITIES CONSTITUTING INVESTMENT BUSINESS****Dealing in Investments**

1. Dealing in investments either:
  - (a) by a professional dealer as principal; or
  - (b) as an agent.

**Arranging Deals in Investments**

2. (1) Making arrangements with a view to another person dealing in investments.
  - (2) This paragraph does not apply to a person by reason of his making arrangements with a view to a transaction to which he himself will be a party, except in the case of a professional dealer or attorney.

**Managing Investments**

3. (1) Managing investments belonging to another person.
  - (2) Managing investments includes:-
    - (a) an attorney managing investments under a power of attorney;
    - (b) the provision of safe custody services for investments.
  - (3) This paragraph does not include the provision of safe custody services for investments where:-
    - (a) the service provided is limited to safekeeping; or
    - (b) the custody is provided only in connection with a transport or delivery service;

**Investment Advice**

4. Giving to persons in their capacity as investors, or potential investors, advice on the merits of their:-
  - (a) dealing in an investment; or
  - (b) exercising any right conferred by an investment to deal in or convert an investment.

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**Managing etc. Collective Investment Schemes**

5. Acting as manager or trustee of any collective investment scheme, whether or not such scheme is established in the Island, or providing any of the services, which the operator of such a scheme would normally undertake.

**PART II  
EXCLUSIONS****Issue of Shares or Debentures**

6. A company shall not by reason of issuing its own shares or share warrants, and a person shall not by reason of issuing his own debentures or debenture warrants, be regarded for the purposes of this Order as disposing of them or, by reason of anything done for the purpose of issuing them, as making arrangements (within the manner contemplated in paragraph 2) with a view to a person subscribing for or otherwise acquiring them or underwriting them.

**Statutory Corporation**

7. Any statutory corporation, being a corporation or authority created by an enactment, an Act of Parliament or an Act of the Parliament of Northern Ireland, or any other corporation being a corporation to which functions in respect of the carrying on of an undertaking are entrusted by an enactment or such an Act or by an Order made under, or confirmed by, an enactment or such an Act shall not be treated as carrying on investment business.

**Local Authority**

8. A local authority shall not be treated as carrying on investment business.

**Groups and Joint Enterprises**

9. Any activity by a person ("the first person"):

- (a) dealing in investments as principal with another person (in the manner contemplated in paragraph 1);
- (b) dealing in investments as agent for another person (in the manner contemplated in paragraph 1) except where the first person is a professional dealer;
- (c) making arrangements with a view to another person dealing in investments (in the manner contemplated in paragraph 2);
- (d) managing investments belonging to another person (in the manner contemplated in paragraph 3); or
- (e) giving advice to another person (in the manner contemplated in paragraph 4),

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shall not be construed as dealing in investments, making arrangements, managing investments or giving advice (within the terms of paragraphs 1 to 4) if the first person and such other person:-

- (i) are companies in the same group; or
- (ii) are, or propose to become, participators in a joint enterprise and the transaction is, or is to be, entered into for the purposes of, or in connection with, that joint enterprise.

**Advice given in the course of a profession or non-investment business**

10. The making of arrangements and the giving of advice (in the manner contemplated in paragraphs 2 and 4) do not apply to arrangements or, as the case may be, to advice:-

- (a) which are made or is given in the course of the carrying on of any profession or of a business not otherwise constituting investment business; and
- (b) the making or giving of which is wholly incidental to other advice or services given in the course of carrying on that profession or business;

but the making of arrangements or giving of advice shall not be regarded as falling within this paragraph if the person holds himself out as being available to make arrangements or give investment advice in addition to the other advice or services.

**Unsolicited or legitimately solicited transactions etc. with or for overseas persons**

11. (1) No activity, which falls within paragraphs 1 to 5, shall be regarded as constituting investment business if it is carried on by an overseas person who is authorised by the Financial Services Authority pursuant to the Financial Services and Markets Act 2000 (of Parliament), to carry on such an activity.

(2) No activity carried on by an overseas person, which falls within paragraphs 1 to 5, shall be regarded as constituting investment business if the activity constitutes engaging in a transaction with or through:

- (i) a permitted person; or
- (ii) a person of a class referred to under paragraphs 21 or 22.

(3) No activity carried on by an overseas person which, falls within paragraphs 1 to 5, shall be regarded as constituting investment business if such activity is the direct result of an approach made to the overseas person by or on behalf of a person on the Island which has not been in any way solicited by the overseas person.

- (4) In this paragraph “overseas person” means a person who:

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- (a) does not carry on investment business from a permanent place of business maintained by him in the Island; and
- (b) is not:
- (i) a company incorporated in the Island under the Companies Acts 1931 to 2004; or
  - (ii) a company incorporated outside the Island which is registered under Part XI of the Companies Act 1931<sup>3</sup>; or
  - (iii) a limited partnership registered in the Island under Part II of the Partnership Act 1909<sup>4</sup>.

**Employees' Share Schemes**

12. (1) Dealing in investments and the making of arrangements (in the manner contemplated in paragraphs 1 and 2) do not apply to anything done by a company, any group company of it or a relevant trustee for the purpose of enabling or facilitating transactions in shares in or debentures of the first mentioned company between or for the benefit of any of the persons mentioned in sub-paragraph (2) or the holding of such shares or debentures by or for the benefit of any such persons.

(2) The persons referred to in sub-paragraph (1) are:

- (a) the bona fide employees or former employees of the company or of another group company; or
- (b) the wives, husbands, widows, widowers, or children or stepchildren under the age of 18 of such employees or former employees.

(3) In this paragraph "a relevant trustee" means a person holding shares in or debentures of a company as trustee in pursuance of arrangements made for the purpose mentioned in sub-paragraph (1) by that company, or by a group company of that company.

(4) In this paragraph "shares" and "debentures" include any warrants or certificates representing securities and include rights to, or interests in, the foregoing.

**Sale of company**

13. (1) Dealing in investments and making arrangements (in the manner contemplated in paragraphs 1 and 2) do not apply to the acquisition or disposal of, or to anything done for the purposes of the acquisition or disposal of, shares in a company and the giving of advice (in the manner contemplated in paragraph 4) does not apply to advice given in connection with the acquisition or disposal of such shares, if:

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<sup>3</sup> XIII p. 235

<sup>4</sup> VIII p.327

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- (a) the shares consist of or include shares carrying 75 per cent or more of the voting rights attributable to share capital which are exercisable in all circumstances at any general meeting of the company; or
  - (b) the shares, together with any already held by the person acquiring them, carry not less than that percentage of those voting rights; and
  - (c) in either case, the acquisition and disposal is, or is to be, between parties each of whom is a body corporate, a partnership, a single individual or a group of connected individuals; or
  - (d) whether or not sub-paragraphs (a), (b), and (c), shall be complied with, the acquisition and disposal is, or is to be, between parties who are together a group of connected individuals.

(2) For the purposes of sub-paragraphs (1)(c) and (1)(d) above “a group of connected individuals”:

- (a) in relation to the party disposing of the shares, means persons each of whom is, or is a close of relative of, a director or manager of the company; and
- (b) in relation to the party acquiring the shares, means persons each of whom is, or is a close relative of, a person who is to be a director or manager of the company.

(3) In this paragraph:-

- (a) "close relative" means a person's spouse, his children and step-children, his parents and step-parents, his brothers and sisters and his step-brothers and step-sisters; and
- (b) "director" has the meaning given in section 10(6) of the Investment Business Act 1991
- (c) "manager" has the meaning given in section 10(6) of the Investment Business Act 1991

### Corporate Services

14. Dealing in investments (in the manner contemplated in paragraph 1), or making arrangements (in the manner contemplated in paragraph 2); does not apply to an activity carried out by a person licensed under the Corporate Service Providers Act 2000<sup>5</sup> to the extent that the person is licensed to undertake that activity under that Act.

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<sup>5</sup> 2000 c.13

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**Introduction**

15. Arranging deals in investments (in the manner contemplated in paragraph 2) does not apply to arrangements for the introduction of persons to another person ("the second person") if the second person:-

- (a) is a permitted person; and
- (b) the introduction is made with a view to the provision of independent advice or the independent exercise of discretion in relation to investments.

**Trustees, Nominees and Personal Representatives**

16. (1) Dealing in investments (in the manner contemplated in paragraph 1) does not apply to a company ("the nominee company") by reason of its dealing in an investment if:-

- (a) the investment comprises shares or debentures issued by a private company, including warrants and certificates representing securities and interests in, and rights to, the foregoing; and
- (b) the investment is, or, as the case may be, is to be held by the nominee company as bare trustee or nominee for the person who is a controller of the private company.

(c) In this sub-paragraph, a company is a "private company" if -

- (i) the law of the country or territory in which it is incorporated;
- or
- (ii) the company's constitutional documents

prohibit it from making an offer (either in that country or territory, or elsewhere) to the public or any section of it to subscribe for shares in or debentures of the company.

(2) Dealing in investments (in the manner contemplated in paragraph 1) does not apply to anything done by a trustee (other than as bare trustee or nominee) or as personal representative unless that person holds himself out as offering the service of dealing in investments in addition to the discharge of his duties as trustee or personal representative.

(3) Making arrangements (in the manner contemplated in paragraph 2) does not apply to anything done by a trustee (other than as bare trustee or nominee) or personal representative with a view to:-

- (a) a fellow trustee or personal representative and himself engaging in their capacity as such in an activity falling within paragraph 1 above; or

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- (b) a beneficiary under the trust, will or intestacy engaging in any such activity,

unless that person holds himself out as offering the service of making arrangements in addition to the discharge of his duties as trustee or personal representative.

(4) Managing investments (in the manner contemplated in paragraph 3) does not apply to anything done by a person as trustee (other than as bare trustee or nominee) or personal representative unless that person holds himself out as offering investment management services in addition to the discharge his duties as trustee or personal representative.

(5) The giving of advice (in the manner contemplated in paragraph 4) does not apply to advice given by a person as trustee (other than as bare trustee or nominee) or personal representative to:-

- (a) a fellow trustee or personal representative for the purposes of the trust or estate; or  
 (b) a beneficiary under the trust, will or intestacy concerning his interest in the trust fund or estate,

unless that person holds himself out as offering investment advice in addition to the discharge of his duties as trustee or personal representative.

(6) Any reference to a trustee in this paragraph shall not include the trustee of a collective investment scheme.

### **Enabling parties to communicate**

17. Arranging deals in investments (in the manner contemplated in paragraph 2) does not apply to arrangements that merely provide the means by which parties to a transaction (or potential transaction) are able to communicate with one other.

### **Advice given in broadcast**

18. The giving of advice (in the manner contemplated in paragraph 4) does not apply in respect of any advice given in any programme (including any advertisement) which is broadcast, or made for broadcasting, by Manx Radio, the British Broadcasting Corporation or any broadcaster licensed or authorised under the Broadcasting Act 1990 or the Broadcasting Act 1996 (Acts of Parliament) or the Broadcasting Act 1993<sup>6</sup> if the principal purpose of the broadcasts from time to time of the broadcaster, taken as a whole and including any advertisements contained in it, is not to lead persons to invest in any particular investment.

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<sup>6</sup> 1993 c.12

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**Newspapers**

19. The giving of advice (in the manner contemplated in paragraph 4) does not apply to advice given in a newspaper, journal, magazine or other periodical publication if the principal purpose of the publication, taken as a whole and including any advertisements contained in it, is not to lead persons to invest in any particular investment.

**Collective Investment Schemes****20. (1) The trustee of:**

- (a) any collective investment scheme which is exempted under section 11(7) to (10) of the Financial Supervision Act 1988<sup>7</sup> ("exempt international collective investment scheme"); or
- (b) any collective investment scheme which is managed in and subject generally to the law of a country or territory outside the Island instead of to the law of the Island,

shall not be treated as carrying on investment business as respects any business he may carry on by virtue of that position.

(2) A person who acts as manager of no more than one exempt international collective investment scheme (an "excluded scheme manager") should not be treated as carrying on investment business as respects any business he may carry on by virtue of that position.

(3) The provision of registration services or accountancy services to any collective investment scheme which is exempt under Section 11(7) to (10) of the Financial Supervision Act 1988 shall be deemed not to constitute services within the contemplation of paragraph 5.

(4) The provision of administrative services to excluded scheme managers shall be deemed not to constitute services within the contemplation of paragraph 5.

**Insurance and Retirement Benefit Schemes**

21. The following persons, namely:

- (a) a person who is authorised under section 6 of the Insurance Act 1986<sup>8</sup>;
- (b) a person who is the holder of a permit issued under section 25 of the Insurance Act 1986;
- (c) a person who is registered under section 27 of the Insurance Act 1986;

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<sup>7</sup> 1988 c.16

<sup>8</sup> 1986 c.24

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(d) a person who is the subject of an exemption under section 3(3)(d) of the Insurance Act 1986; and

(e) a person who is registered as a scheme administrator under section 36 (1) of the Retirement Benefits Schemes Act 2000<sup>9</sup>.

shall not be treated as carrying on investment business as respects any business he may carry on by virtue of that authorisation, permit, registration, or, as the case may be, section.

**Friendly Society**

22. A body registered as a friendly society (but not as a branch of a society) under the law of, or any part of, the United Kingdom relating to friendly societies shall not be treated as carrying on investment business as respects any business which it carries on for or in connection with any of the purposes for which friendly societies may, under that law, provide.

**Court officers etc.**

23. The Judges of the High Court, the Chief Registrar and any receiver or officer of the High Court shall not be treated as carrying on investment business as respects any business, which they carry on by virtue of their position.

**Diocesan Board of Finance**

24. The Sodor and Man Diocesan Board of Finance shall not be treated as carrying on investment business as respects any business, which they carry on for the purposes of the Church of England.

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<sup>9</sup> 2000 c.14

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**SCHEDULE 2**  
**Article 3**  
**INVESTMENTS**

**Shares etc.**

1. Shares, including stock, in the share capital of a company ("shares").

**Debentures**

2. (1) Debentures, including debenture stock, loan stock, bonds and certificates of deposit and other instruments creating or acknowledging indebtedness ("debentures");

- (2) Sub-paragraph (1) does not apply to:-

- (a) any instrument acknowledging or creating indebtedness for, or for money borrowed to defray, the consideration payable under a contract for the supply of goods or services;
- (b) a cheque or other bill of exchange, a banker's draft or a letter of credit;
- (c) a banknote, a statement showing a balance in a current, deposit or savings account or (by reason of any financial obligation contained in it) to a lease or other disposition of property, a heritable security or an insurance policy;
- (d) government securities.

**Government and Public Securities**

3. (1) Loan stock, bonds and other instruments ("government securities") creating or acknowledging indebtedness issued by or on behalf of:-

- (a) the government of the Island or of any country or territory outside the Island;
- (b) a local authority in the Island or elsewhere;
- (c) any international organisation the members of which include the United Kingdom or another Member State of the European Union.

- (2) Sub-paragraph (1) does not apply to:-

- (a) any instrument acknowledging or creating indebtedness for, or for money borrowed to defray, the consideration payable under a contract for the supply of goods or services;
- (b) a cheque or other bill of exchange, a banker's draft or a letter of credit;

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- (c) a banknote, a statement showing a balance in a current, deposit or savings account or (by reason of any financial obligation contained in it) to a lease or other disposition of property, a heritable security or an insurance policy.

**Instruments entitling to shares and securities**

4. Warrants or other instruments entitling the holder to, or to subscribe for shares, debentures or government securities ("share warrants", "debenture warrants" (including warrants to subscribe for government securities), and together "warrants")

**Certificates representing securities**

5. Certificates or other instruments ("certificates representing securities"), which confer -

- (a) property rights in respect of any shares, debentures, government securities or warrants;
- (b) any right to acquire, dispose of, underwrite or convert an investment, being a right to which the holder would be entitled if he held any such investment to which the certificate or instrument relates; or
- (c) a contractual right (other than an option) to acquire any such investment otherwise than by subscription.

**Units in Collective Investment Schemes**

6. Units in a collective investment scheme, including shares in, or securities of, an open-ended investment company.

**Options**

7. Options to acquire or dispose of -
- (a) an investment falling within any other paragraph of this Schedule;
- (b) currency of the Island or of any other country or territory;
- (c) gold, palladium, platinum or silver; or
- (d) an option to acquire or dispose of an investment falling within sub-paragraph (a), (b) or (c).

**Futures**

8. (1) Subject to sub-paragraph (2), rights under a contract for the sale of a commodity or property of any other description under which delivery is to be made at a future date and at a price agreed on when the contract is made.

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(2) There are excluded from sub-paragraph (1) rights under any contract which is made for commercial and not investment purposes.

(3) A contract is to be regarded as made for investment purposes if it is made or traded on a recognised investment exchange, or is made otherwise than on a recognised investment exchange but is expressed to be as traded on such an exchange or on the same terms as those on which an equivalent contract would be made on such an exchange.

(4) A contract not falling within paragraph (3) is to be regarded as made for commercial purposes if under the terms of the contract delivery is to be made within seven days, unless it can be shown that there existed an understanding that (notwithstanding the express terms of the contract) delivery would not be made within seven days.

(5) The following are indications that a contract not falling within paragraph (3) or (4) is made for commercial purposes and the absence of them is an indication that it is made for investment purposes -

- (a) one or more of the parties is a producer of the commodity or other property, or uses it in his business;
- (b) the seller delivers or intends to deliver the property or the purchaser takes or intends to take delivery of it.

(6) It is an indication that a contract is made for commercial purposes that the prices, the lot, the delivery date or other terms are determined by the parties for the purposes of the particular contract and not by reference (or not solely by reference) to regularly published prices, to standard lots or delivery dates or to standard terms.

(7) The following are indications that a contract is made for investment purposes -

- (a) it is expressed to be as traded on an investment exchange;
- (b) performance of the contract is ensured by an investment exchange or a clearing house;
- (c) there are arrangements for the payment or provision of margin.

(8) For the purposes of paragraph (1), a price is to be taken to be agreed on when a contract is made -

- (a) notwithstanding that it is left to be determined by reference to the price at which a contract is to be entered into on a market or exchange or could be entered into at a time and place specified in the contract; or
- (b) in a case where the contract is expressed to be by reference to a standard lot and quality, notwithstanding that provision is made for a variation in the price to take account of any variation in quantity or quality on delivery.

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**Contracts for differences etc**

9. (1) Rights under a contract for differences, or under any other contract the purpose or pretended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in the value or price of property of any description or in an index or other factor designated for that purpose in the contract.

(2) This paragraph shall not apply to a contract where the parties intend that the profit is to be obtained or the loss avoided by taking delivery of any property to which the contract relates.

**Long-Term Insurance Contracts**

10. Rights under a contract the effecting or carrying out of which constitutes long-term insurance business.

**Rights and Interests in Investments**

11. (1) Rights to and interests in anything which is an investment falling within any other paragraph of this Schedule;

(2) This paragraph does not apply to interests under the trusts of an occupational pension scheme.

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**SCHEDULE 3**  
**Article 4**  
**INTERPRETATION**

1. Definitions
- In this Order:
- (a) "agent" includes an attorney and a nominee;
  - (b) "attorney" means the donee of a power of attorney acting under the power;
  - (c) "certificates representing securities" has the meaning given by paragraph 5 of Schedule 2;
  - (d) "company" includes any body corporate and also any unincorporated body constituted under the law of a country or territory outside the Island, but does not include:-
    - (i) an open-ended investment company; or
    - (ii) except for the purposes of paragraphs 9, 13 and 14 of Schedule 1 and paragraph 1(j) of this Schedule, and except in relation to shares of a class defined as deferred shares for the purposes of section 119 of the Building Societies Act 1986 (of Parliament), a building society incorporated under the laws of, or any part of, the United Kingdom or the Island; or
    - (iii) except for the purposes of paragraphs 9, 13 and 14 of Schedule 1 and paragraph 1(j) of this Schedule, any body incorporated under the law of the Island or of, or of any part of, the United Kingdom relating to building societies, industrial and provident societies or credit unions;
  - (e) "dealing" means buying, selling, subscribing for or underwriting;
  - (f) "debentures" has the meaning given by paragraph 2 of Schedule 2;
  - (g) "debenture warrants" has the meaning given by paragraph 4 of Schedule 2;
  - (h) "disposal" includes:
    - (i) in the case of an investment consisting of rights under a contract or other arrangements, assuming the corresponding liabilities under the contract or arrangements;
    - (ii) in the case of any other investment, issuing or creating the investment or granting the rights or interests of which it consists;
    - (iii) in the case of an investment consisting of rights under a contract, surrendering, assigning or converting those rights;

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- (i) "government securities" has the meaning given by paragraph 3 of Schedule 2;
- (j) "a group" shall be treated as including any company in which a member of the group holds a qualifying capital interest, and for this purpose:-
- (i) a qualifying capital interest means an interest in relevant shares of the company which the member holds on a long term basis for the purpose of securing a contribution to its own activities by the exercise of control or influence arising from that interest;
  - (ii) relevant shares means shares comprised in the ordinary share capital of the company of a class carrying rights to vote in all circumstances at general meetings of the body; and
  - (iii) a holding of 20 per cent or more of the nominal value of the relevant shares of a company shall be presumed to be a qualifying capital interest unless the contrary is shown; and in relation to any company, any other company being a member of the same group shall be a group company;
- (k) "investment" means any asset, right or interest falling within any paragraph of Schedule 2;
- (l) "long-term insurance business" means the effecting or carrying out of contracts of insurance of the following descriptions, namely life, annuity, marriage, birth, permanent health, tontines, capital redemption and pension fund management, but does not include contracts under which :-
- (i) the benefits are payable only on death or in respect of incapacity due to injury, sickness or infirmity;
  - (ii) no benefits are payable under the contract on a death (other than a death due to accident) unless it occurs within ten years of the date on which the life of the person in question was first insured under the contract or before that person attains a specified age not exceeding 70 years;
  - (iii) there is no surrender value or the consideration consists of a single premium and the surrender value does not exceed that premium; and
  - (iv) there is no provision for its conversion or extension in a manner that would result in its ceasing to comply with paragraphs (i), (ii) and (iii);
- (m) "joint enterprise" means an enterprise into which two or more persons ("the participators") enter for commercial reasons related to a business or businesses (other than investment business) carried on by them; and where a participator is a body corporate and a member of a group, each other member of the group shall also be regarded as a participator in the enterprise;

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- (n) "market maker" in relation to an investment means a person who (otherwise than in his capacity as the operator of a collective investment scheme) holds himself out as able and willing to enter into transactions of sale and purchase in investments of that description at prices determined by him generally and continuously rather than in respect of each particular transaction;
- (o) "professional dealer" means any person who:-
- (i) is a market maker in investments; or
  - (ii) regularly solicits members of the public (whether in the Island or elsewhere) to deal in investments;
- (p) "property" includes currency of the Island or any other country or territory;
- (q) "shares" has the meaning given in paragraph 1 of Schedule 2;
- (r) "share warrants" has the meaning given in paragraph 4 of Schedule 2;
- (s) "warrants" has the meaning given in paragraph 4 of Schedule 2;
- (t) references to "buying or selling" include references to any acquisition or disposal for valuable consideration;
- (u) references to "dealing", "making", "managing" and "giving" include offering or agreeing to deal, make, manage or give respectively;
- (v) references to an "instrument" include references to any record whether or not in the form of a document; and
- (w) references to an "offer" include references to an invitation to treat.

**Financial Supervision Act 1988**

2. Any expression in this Order which is not defined in this Order or in the Investment Business Act 1991 shall have the same meaning as in the Financial Supervision Act 1988, and for ease of reference the list below indicates the expressions used in this Order to which a meaning is given by the 1988 Act -

"body corporate"  
 "collective investment scheme"  
 "controller"  
 "operator"  
 "an open-ended investment company"  
 "trustee" (in relation to collective investment schemes)  
 "units".

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**Gaming**

3. In determining whether anything constitutes an investment or the carrying on of investment business the provisions of any enactment relating to gaming, betting and lotteries shall be disregarded.

**Made:** 8<sup>th</sup> September 2004

**Signed:**

***Mr. Donald Gelling***

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**by authority of the  
Minister for the Treasury**

**EXPLANATORY NOTE**  
(This Note is not part of the Order)

**This Order defines the term "investment" and those activities that constitute "investment business". It also defines those activities that are excluded from the scope of the Investment Business Act 1991, together with miscellaneous interpretation.**

**This Order replaces the Investment Business Order 1991.**