
 Financial Supervision (Professional Investor Fund) (Exemption) Order 1999

Statutory Document No: 602/99 as
amended by SD 81/03



FINANCIAL SUPERVISION ACT 1988

FINANCIAL SUPERVISION (PROFESSIONAL INVESTOR FUND) (EXEMPTION) ORDER 1999

Approved by Tynwald on 16th November 1999

Coming into operation on 14th October 1999

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, commencement and revocation

1 (1) This Order may be cited as the Financial Supervision (Professional Investor Fund) (Exemption) Order 1999 and shall come into operation on the 14th October 1999.

(2) The Financial Supervision (Professional Investor Fund) (Exemption) Order 1995(b) is revoked

Interpretation

2 (1) In this Order -

"the Act" means the Financial Supervision Act 1988;

"exempt person" has the meaning given in regulation 2 of the Investment Business (Exemption) (Fund Managers) Regulations 1999(c);

"professional investor" means -

(a) a body corporate which has net assets in excess of \$1 million or which is part of a group which has net assets in excess of \$1 million;

(b) an unincorporated association which has net assets in excess of \$1 million;

(a) 1988 c.16

(b) SD 627/95 as amended by SD 448/96SD 597/99

(c) SD 604/9

 Financial Supervision (Professional Investor Fund) (Exemption) Order 1999

(c) the trustee of a trust where the aggregate value of the cash and investments which form part of the trust's assets is in excess of \$1 million;

(d) a person whose ordinary business involves the acquisition and disposal of property of the same kind as the property, or a substantial part of the property, to which the professional investor fund in question relates;

(e) an individual whose net worth, or joint net worth with that person's spouse, exceeds \$1 million;

"fund administrator" means a person (other than the manager) who provides administration services to professional investor funds who is either -

(a) the holder of a licence under the Investment Business Act 1991(d) which specifically includes this activity; or

(b) is the holder of a licence under the Banking Act 1998(e) which by its terms does not prevent him from undertaking this activity;

"professional investor fund" means a collective investment scheme which complies with the conditions of article 4.

(2) Any figure expressed is in US Dollars and shall also be taken as including its equivalent in any other currency.

Exemptions

3. A professional investor fund shall be exempt from the following provisions of section 11 of the Act -

(a) subsections (1) and (2)(b);

(b) in subsection (4), the words "6, 7(1) (with the omission of the requirement relating to the advocate's certificate) and (2), 10,";

(c) subsections (7) to (10).

Conditions

4. (1) Where a professional investor fund has a manager in the Island, he must be either -

(a) the holder of a licence under the Investment Business Act 1991 which specifically includes this activity; or

(b) an exempt person.

^(d) 1991 c.18

^(e) 1998 c.4(2) Where a professional investor fund has a manager outside the Island he must be an exempt person.

Financial Supervision (Professional Investor Fund) (Exemption) Order 1999

(3) Where a professional investor fund has no manager a fund administrator must be appointed in respect of that fund.

(4) The manager and, in any case to which paragraph (2) or (3) applies, the fund administrator shall be responsible for ensuring that the conditions in paragraph (5) are complied with.

(5) The professional investor fund -

(a) shall be available only to professional investors who make an initial investment of no less than \$100,000 and a statement to this effect shall be contained in the offering document of the professional investor fund;

(b) shall include in its offering document a provision to the effect that no application shall be accepted, and no such subscription or transfer shall be effected unless and until such person has signed a statement contained within the fund's application form stating-

"I/we confirm that I/we am/are professional investor(s) as defined in the Financial Supervision (Professional Investor Fund) (Exemption) Order 1999 and further confirm the I/we have read and understood (a) the description of the arrangements for the custody of the assets of [name of PIF]; and (b) the statements set out on [page number of the PIF]".

(c) shall have an offering document which has been approved by the manager or, as the case may be, the fund administrator;

(d) shall have an offering document which contains all material information which at the date of the offering document is within the knowledge of the manager or, as the case may be, the fund administrator (or which that person would have obtained by making reasonable enquiries) which would be relevant for the purpose of making an informed judgement about the merits of participating in the professional investor fund and the extent of the risks accepted by so participating;

(e) shall include in its offering document a description of the arrangements for the custody of the assets of the professional investor fund;

(f) shall include in its offering document the following statements in a prominent position -

"[name of the professional investor fund] is not subject to any form of regulation or approval in the Isle of Man, and investors are not protected by any statutory compensation arrangements in the event of the fund's failure"

"The Isle of Man Financial Supervision Commission does not vouch for the financial soundness of the fund or for the correctness of any statements made or opinions expressed with regard to it."

Financial Supervision (Professional Investor Fund) (Exemption) Order 1999

[(g) shall have its annual report and accounts audited]. [amended by SD 81/03]

Made this 13th day of October 1999.

Minister for the Treasury

EXPLANATORY NOTE
(This note is not part of the Order)

This Order creates a special type of international collective investment scheme which is available only to professional investors, known as the professional investor fund. The Order defines a professional investor for the purposes of this Order and requires certain risk disclosures to be made in the scheme's documentation.

The Order exempts the professional investor fund from certain mandatory requirements which would apply to an international collective investment scheme, these include the requirement to have a trustee, to produce scheme particulars and to provide the Commission with a copy of the constitutional documents of the fund and written notice of a change to the scheme.