

Investment Business (Exemption) (Banks and Building Societies) Regulations 1992

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*Government Circular No: 156/92*



**INVESTMENT BUSINESS ACT 1991**

**INVESTMENT BUSINESS (EXEMPTION) (BANKS  
AND BUILDING SOCIETIES) REGULATIONS 1992**

In exercise of the powers conferred on the Financial Supervision Commission by Sections 2(3) and 20(1) of the Investment Business Act 1991(a), and all other powers enabling it in that behalf, and after consultation with the Treasury the following Regulations are hereby made:-

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**Citation and Commencement**

1. (1) These Regulations may be cited as the Investment Business (Exemption) (Banks and Building Societies) Regulations 1992.
- (2) These Regulations shall come into operation on the 31st March 1992.

**Interpretation**

2. In these Regulations:

"Accounting Records" mean those records kept in accordance with paragraph 8.5.4 of the Financial Supervision Commission (Conduct of Business) Regulatory Code(b) as modified by Regulation 4 (1);

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|-------------------------------------|-------------------------------------|
| (a) 1991 c.18                       | (d) GC 399/91, amended by GC 98/92  |
| (b) GC 400/91, amended by GC 99/92  | (e) GC 402/91, amended by GC 101/92 |
| (c) GC 403/91, amended by GC 102/92 |                                     |

"the Act" means the Investment Business Act 1991;

"Exempt Person" means:-

- (a) any banking institution holding a licence issued under Section 3 of the Banking Act 1975;
- (b) any building society holding an authorisation issued under Section 2(1) of the Building Societies Act 1986.

**Exemption**

3. Section 2(1) of the Act shall not apply to any Exempt Person.

**Conditions**

4. The conditions subject to which exemption is granted are:-

(1) The Financial Supervision Commission (Conduct of Business) Regulatory Code(b) shall apply in respect of any investment business conducted in or from the Island by the Exempt Person. References within that Code to "the licenceholder" shall be construed as meaning "the Exempt Person" except that, for paragraph 8.5.4, the following paragraph shall be substituted:-

"8.5.4 The accounting records shall in particular contain:-

- a) entries from day to day of all purchases and sales of assets by the exempt person acting for a client;

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- b) a record of all income and expenses, explaining their nature;
- c) records to demonstrate compliance with the reconciliation requirements of the Financial Supervision Commission (Clients' Investments) Regulatory Code(d) in respect of any investment business conducted by the exempt person;
- d) records necessary to identify the nature, amount, nominal value and location of each Client's Title Document belonging to an investment business client, whether it is held by the exempt person or by an eligible custodian. In addition, if an eligible custodian is used, the exempt person is responsible for ensuring that such records are maintained by the custodian; and
- e) entries which record the date at which the Client's Title Documents came into or left the possession or control of the exempt person".

(2) The Financial Supervision Commission (Advertising) Regulatory Code(c) shall apply in respect of any investment business conducted in or from the Island by the Exempt Person. References within that code to "the licenceholder" shall be construed as meaning "the Exempt Person".

(3) The Financial Supervision Commission (Clients' Investments) Regulatory Code shall apply in respect of any investment business conducted in or from the Island by the Exempt Person. References within that code to "the licenceholder" shall be construed as meaning "the Exempt Person".

(4) The following paragraphs within the Financial Supervision Commission (General Requirements) Regulatory Code(e) shall apply to the Exempt Person in respect of any activities conducted in the Island:-

- a) Paragraphs 7.5, 7.6, 7.7, and 7.9.
- b) Paragraphs 8 (a), 8 (b), 8 (i), 8 (j), 8 (k) and 8 (l)

References within those paragraphs to "the licenceholder" shall be construed as meaning "the Exempt Person".

(5) The Exempt Person shall arrange for an annual audit report to be sent to the Commission stating whether, in the auditor's opinion:-

- a) proper accounting records appropriate to the investment business carried on by the exempt person have been maintained throughout the financial year.
- b) the Exempt Person has maintained throughout the year systems adequate to enable it to comply with the Financial Supervision Commission (Clients' Investments) Regulatory Code and was in compliance with that Code at the balance sheet date.
- c) reconciliations of Clients' Investments have been performed in accordance with the Financial Supervision Commission (Clients' Investments) Regulatory Code.

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(6) Where, in the auditor's opinion, one or more of the requirements in respect of which he is required to report under paragraph 4(5) of these Regulations have not been met, the report shall include a statement specifying the relevant requirements and the respects in which they have not been met.

(7) Where the auditor is unable to form an opinion as to whether one or more of the requirements in respect of which the auditor is required to report under paragraph 4(5) have been met, the report shall specify those requirements and give the reasons why the auditor has been unable to form an opinion.

Made under the Common Seal of the Financial Supervision Commission

this 12th day of March 1992.

*D J Gelling*  
CHAIRMAN

*J E Noakes*  
CHIEF EXECUTIVE

These Regulations were approved by Tynwald on 15 April 1992.

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**EXPLANATORY NOTE**  
*(This note is not part of the Regulations)*

These Regulations provide for licensed Banking Institutions and Building Societies to be exempt from certain provisions of the Investment Business Act subject to certain Regulatory Codes applying to any Investment Business which they conduct.