



FIDUCIARY SERVICES ACTS 2000 AND 2005

FIDUCIARY SERVICES (EXEMPTIONS) REGULATIONS 2006

Approved by Tynwald 22nd June 2006

Coming into operation 22nd June 2006

In exercise of the powers conferred on the Financial Supervision Commission under section 22(2) of, and paragraph 1 of Part II of Schedule 2 to the Corporate Service Providers Act 2000^(a), and of all other enabling powers, and after consultation with the Treasury, the following Regulations are hereby made:-

Citation and commencement

1. These Regulations may be cited as the Fiduciary Services (Exemptions) Regulations 2006 and shall come into operation on 22nd June 2006.

Interpretation

2. In these Regulations:

“the Act” means the Corporate Service Providers Act 2000;

“regulated activities” has the meaning given in section 1(2)(b) of the Act (trust services).

Exemptions

3. In Part IA of Schedule 2 to the Act -

(a) In paragraph 11 for the opening paragraph from “Section 2(1)” to “in the capacity of” substitute:

“11. Other than when acting as a trust corporation within the meaning of section 65A(b) of the Trustee Act 1961, section 2(1) and (2) shall not apply in respect of any regulated activity undertaken by a person when acting in the capacity of –”

^(a) 2000 c.13

- (b) In paragraph 12 for sub-paragraph (2) substitute:
- “(2) In sub-paragraph (1) “specified person” means a person who–
- (a) practices as an advocate or firm of advocates; or
 - (b) is a registered legal practitioner (within the meaning of the Legal Practitioners Registration Act 1986) or a firm of registered legal practitioners; or
 - (c) is a member of one of the following accountancy bodies –
 - (i) the Institute of Chartered Accountants in England and Wales;
 - (ii) the Institute of Chartered Accountants of Scotland;
 - (iii) the Institute of Chartered Accountants in Ireland; or
 - (iv) the Association of Chartered Certified Accountants.”
- (c) Before paragraphs 15 and 16 insert the headings “*De minimis*” and “*Small domestic trusts*” respectively.
- (d) For paragraph 15 substitute –
- “15. (1) Section 2(1) and (2) shall not apply in respect of any regulated activity (other than acting as a trust corporation within the meaning of section 65A(b) of the Trustee Act 1961) undertaken by a specified person (within the meaning of paragraph 12(2)) if that specified person does not undertake regulated activities in respect of more than 10 trusts.
- (2) Sub-paragraph (1) shall apply to –
 - (a) a specified person who is an individual in respect of any regulated activities he or she undertakes on his or her own behalf; and
 - (b) a specified person which is a body of persons in respect of any regulated activities it undertakes on its own behalf or as a service for any individual connected with it (whether as a partner, controller, director, employee or otherwise).
 - (3) For the purposes of sub-paragraph (1), in determining the number of trusts in respect of which a specified person undertakes a regulated activity, no account shall be taken of any trust in respect of which a regulated activity would be the subject of an exemption under any paragraph of Part IA of this Schedule if that activity were undertaken by that individual or body of persons respectively.”
- (d) In paragraph 16 delete the words “an individual who is”.

Made 27th April 2006

Chairman

Chief Executive

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

These Regulations are made by the Financial Supervision Commission for the purpose of adding to and amending the exemptions in Part 1A (*Exemptions: Trust Service Providers*) of Schedule 2 to the Corporate Service Providers Act 2000.

These Regulations redefine the expression "specified person" to clarify that it applies to both individuals and professional firms ("persons") who are advocates, registered legal practitioners or accountants (members of the Institutes of Chartered Accountants in England and Wales, Scotland or Ireland or the Association of Chartered Certified Accountants). The Regulations extend the *de minimis* exemption, which permits individuals who are "specified persons" to provide trust services to no more than 10 trusts without being required to hold the relevant licence, to their professional firms.

It should be noted that any regulated trust service activity (acting as a trustee, etc or trust administration) provided by the individuals working in or associated with a professional firm (partners, directors, employees etc) must be taken into account in calculating the firm's total number of trusts, unless the individuals are not acting through the firm (for example, if an individual acts in a personal capacity and invoices personally and not through the firm for his services).