

Statutory Document No. 2010/0166



Collective Investment Schemes Act 2008

COLLECTIVE INVESTMENT SCHEMES (PROMOTION OF SCHEMES OTHER THAN AUTHORISED AND RECOGNISED SCHEMES) (EXEMPTION) REGULATIONS 2010¹

Approved by Tynwald: 20 April 2010
Coming into Operation: 1 May 2010

The Financial Supervision Commission, after consulting in accordance with section 24(13), makes these Regulations under sections 3(3) and 24(1) of the Collective Investment Schemes Act 2008¹.

1 Title

These Regulations are the Collective Investment Schemes (Promotion of Schemes Other than Authorised and Recognised Schemes) (Exemption) Regulations 2010.

2 Commencement

These Regulations come into operation on 1 May 2010.

3 Interpretation

In these Regulations —

"**the Act**" means the Collective Investment Schemes Act 2008;

"**appropriate licenceholder**" means the holder of a licence under section 7 of the Financial Services Act 2008² which allows it to undertake Class 2 or Class 3 regulated activities;

"**affected scheme**" means a scheme that is not an authorised scheme or a recognised scheme;

"**authorised scheme**" has the meaning given in Schedule 1 to the Act;

"**client**" includes a customer (and vice versa);

¹ 2008 c.7

² C8

"**collective investment scheme**" has the meaning given in section 1 of the Collective Investment Schemes Act 2008;

"**group**" has the meaning given in section 26(1) of the Act;

"**participant**" has the meaning given in section 1(2) of the Act;

"**overseas person**" has the meaning given in the Regulated Activities Order 2009³;

"**recognised scheme**" has the meaning given in Schedule 4 to the Act;

"**retail investor**" has the meaning given in the Financial Services Rulebook 2009⁴.

4 Exemption

- (1) Section 3(1) of the Act does not apply to the promotion of affected schemes if they are promoted subject to regulation 5 and, as the case requires, paragraph (2) of this regulation.
- (2) The exemption from section 3 given under regulation 5 only applies where an advertisement for an affected scheme includes a statement that either —
 - (a) scheme participants are not protected by any statutory compensatory scheme; or
 - (b) scheme participants are protected by a statutory compensation scheme;as appropriate.
- (3) Where a compensation scheme applies under section 2(b), the details of the compensation arrangements must be clearly set out.

5 Promotion of an affected scheme

- (1) An appropriate licenceholder may promote an affected scheme —
 - (a) to any person —
 - (i) who is currently a participant in that scheme;
 - (ii) who is currently a participant in a scheme whose assets will be absorbed or taken over by that scheme; or
 - (iii) as an alternative offer to a cash settlement being made for the units held by that person in a scheme which is to be liquidated;
 - (b) to any person who holds a licence under the Financial Services Act 2008 or the Insurance Act 2008⁵;
 - (c) to a person who is not a retail investor;

³ SD 738/09

⁴ SD 737/09

⁵ C18

- (d) to an individual who is a client of the licenceholder and for whom the licenceholder (after having sought information about his circumstances and investment objectives) believes that investment in the scheme is suitable; or,
 - (e) to a body corporate who is a client of the licenceholder.
- (2) An overseas person will not be regarded as having promoted an affected scheme to a person in the Island if the promotion –
- (a) resulted from a direct approach by, or on behalf of the person in the Island to the overseas person; and
 - (b) was not in any way solicited by the overseas person.

6 Revocations

The Financial Supervision (Promotion of Unregulated Schemes) (Exemption) Regulations 1992⁶ are revoked.

MADE 15 MARCH 2010

⁶ GC 139/92

ENDNOTES

Table of Endnote References

¹ The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.