

**INVESTMENT BUSINESS (EXEMPTIONS) ORDER 2004**

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**BR 6/2004**

**THE INVESTMENT BUSINESS ACT 2003**

**2003 : 20**

**THE INVESTMENT BUSINESS (EXEMPTIONS) ORDER 2004**

In exercise of the powers conferred upon him by section 13 of the Investment Business Act 2003, the Minister of Finance, acting on the advice of the Bermuda Monetary Authority, makes the following Order :

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**Citation**

1 This Order may be cited as the Investment Business (Exemptions) Order 2004.

**Interpretation**

2 In this Order —

"Act" means the Investment Business Act 2003;

"collective investment schemes" has the same meaning as in the Bermuda Monetary Authority (Collective Investment Scheme Classification) Regulations 1998 or any provision of law amending or replacing such Regulations, and includes collective investment schemes established or registered outside Bermuda;

"high income private investor" means an individual who has had a personal income in excess of \$200,000 in each of the two years preceding the current year or has had a joint income with that person's spouse in excess of \$300,000 in each of those years, and has a reasonable expectation of reaching the

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same income level in the current year; and "current year" means the year in which he purchases an investment;

"high net worth private investor" means an individual whose net worth or joint net worth with that person's spouse in the year in which he purchases an investment exceeds \$1,000,000; and "net worth" means the excess of total assets at fair market value over total liabilities;

"investment services" means investment activities undertaken in the course of carrying on investment business;

"market intermediary" means a person who engages or holds himself out as engaging in the business of dealing in investments as principal or agent on an investment exchange;

"sophisticated private investor" means —

- (a) an individual who has such knowledge of, and experience in, financial and business matters as would enable him to properly evaluate the merits and risks of a prospective purchase of investments; and
- (b) who, in respect of each investment transaction, deals in amounts of not less than \$100,000.

### **Exemption**

3 (1) Subject to the conditions expressed in relation to each of them, persons specified in the Schedule (being persons carrying on investment business in or from Bermuda) are exempt from the requirement to hold a licence under the Act.

(2) Every person who qualifies for exemption under paragraph 1 or 3 of the Schedule shall provide the Authority with a declaration in such form as the Authority may require, declaring that he is so qualified by virtue of the applicable paragraph of the Schedule.

### SCHEDULE

#### Exempted Persons

1. Persons, other than market intermediaries, who provide investment services exclusively to one or more of the following classes of undertakings —

- (a) high income private investors;
- (b) high net worth private investors;
- (c) sophisticated private investors;
- (d) collective investment schemes approved by the Authority under the Bermuda Monetary Authority (Collective

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Investment Scheme Classification) Regulations 1998 or any provision of law amending or replacing such Regulations;

- (e) bodies corporate, each of which has total assets of not less than five million dollars, where such assets are held solely by the body corporate or held partly by the body corporate and partly by one or more members of a group of which it is a member;
- (f) unincorporated associations, partnerships or trusts, each of which has total assets of not less than five million dollars, where such assets are held solely by such association, partnership or trust or held partly by it and partly by one or more members of a group of which it is a member;
- (g) bodies corporate, all of whose shareholders fall within one or more of the subparagraphs of this paragraph, except subparagraph (d);
- (h) partnerships, all of whose members fall within one or more of the subparagraphs of this paragraph, except subparagraph (d);
- (i) trusts, all of whose beneficiaries fall within one or more of the subparagraphs of this paragraph, except subparagraph (d).

2. Collective investment schemes.

3. Persons who provide investment services to not more than twenty persons at any time, and do not provide investment services to, or solicit investment business from, the public.

4. (1) Persons who are registered under the Insurance Act 1978 to carry on insurance business (within the meaning of section 1(1) of that Act).

(2) An exemption under this paragraph applies only to persons who provide investment services in connection with the insurance business for which those persons are registered under that Act.

5. (1) Persons registered under the Insurance Act 1978 as insurance managers, brokers, agents, salesmen, or members of an association of underwriters (within the meaning of section 1 of that Act) recognised by the Authority.

(2) An exemption under this paragraph applies only to persons who provide investment services in connection with the business for which they are registered under that Act.

6. The Government of Bermuda.

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7. The Bermuda Monetary Authority.
8. Public Authorities established in Bermuda.

Made this 3<sup>rd</sup> day of February, 2004.

Minister of Finance