



BERMUDA

INVESTMENT BUSINESS REGULATIONS 2004

BR 7 / 2004

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SCHEDULE

Application Forms - Licensing and Registration

In exercise of the powers conferred upon the Minister of Finance by sections 16, 18, 39 and 86 of the Investment Business Act 2003, the following Regulations are hereby made :—

Citation

- 1 These Regulations may be cited as the Investment Business Regulations 2004.

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Interpretation

2 In these Regulations—

“the Act” means the Investment Business Act 2003;

“investment provider” has the meaning given in section 2 of the Act.

[Regulation 2 revoked and replaced by BR 84 / 2022 reg. 2 effective 27 July 2022]

FORM OF LICENCE

Form of licence

3 An application for a licence made under section 16 of the Act shall be in the form set out in the Schedule.

REGISTER OF LICENCES

Contents of register

4 *[Revoked by BR 84 / 2022 reg. 3]*

[Regulation 4 revoked by BR 84 / 2022 reg. 3 effective 27 July 2022]

SYSTEMS AND RECORDS

General duty to maintain systems and records

5 (1) An investment provider, having regard to the nature, scale and complexity of the investment provider's business, shall maintain adequate systems of control of the business and records and maintain adequate accounting and other records as will enable the investment provider to discharge the obligations imposed by or under the Act or other provision of law.

(2) An investment provider must maintain accounts for all clients' assets separately from its own, in such a way as to enable such assets, individually and in aggregate to be identified and reconciled at any time.

[Regulation 5 paragraph (1) amended by BR 84 / 2022 reg. 4 effective 27 July 2022]

Duty to provide contract note

6 (1) Except as provided in paragraph (2), an investment provider shall provide each client with a contract note containing the particulars specified in paragraph (3) not later than one day following the date of each transaction effected and carried out by the investment provider .

(2) Where the particulars required by paragraph (3) are in the possession of a third party who is connected with the transaction, an investment provider shall, not later than seven days from the date of receiving such particulars from the third party, provide the client with the contract note required by paragraph (1).

(3) A contract note shall contain the following particulars—

(a) the name and address of the investment provider, and the capacity in which the investment provider is acting;

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- (b) the client's designation and account number;
- (c) the date of the transaction;
- (d) the quantity and description of the securities that are the subject of the transaction;
- (e) the nature of the transaction and the unit price (forward or historic) of the securities ;
- (f) the fees, commissions and expenses, if any, charged to the client (directly or indirectly) in connection with the transaction;
- (g) if a purchase, the total cost;
- (h) if a sale, the total proceeds;
- (i) the settlement date;
- (j) if the transaction involves a currency conversion, the relevant rate of exchange.

[Regulation 6 amended by BR 84 / 2022 reg. 5 effective 27 July 2022]

Duty to provide portfolio statement

7 (1) An investment provider shall provide each client with a portfolio statement containing particulars of—

- (a) all transactions effected and carried out on behalf of the client during the period covered by the statement; and
- (b) all assets held for the account of the client by the investment provider as at the date of the statement.

(2) An investment provider shall provide the first portfolio statement within a period of six months beginning with the date of the opening of the client's account, and thereafter shall provide a quarterly statement unless otherwise requested by, and agreed to in writing, with the client.

[Regulation 7 paragraph (2) amended by BR 84 / 2022 reg. 6 effective 27 July 2022]

Duty to keep accounting records

8 (1) An investment provider shall keep and maintain up-to-date accounting records in the English language which shall —

- (a) in respect of the investment provider's business, disclose particulars of—
 - (i) assets held for the investment provider's own account;
 - (ii) liabilities incurred for the investment provider's own account; and
 - (iii) entries of income and expenditure made and an explanation of their nature; and

- (b) in respect of the affairs of the clients of an investment provider, disclose particulars of—
 - (i) all assets held, managed or controlled by the investment provider for the account of clients, both individually respecting each client and collectively respecting all clients;
 - (ii) all liabilities incurred by the investment provider on behalf of clients, both individually respecting each client and collectively respecting all clients;
 - (iii) all transactions effected and carried out on behalf of clients, both individually respecting each client and collectively respecting all clients;
 - (iv) every document evidencing title to a client's asset held by the investment provider;
 - (v) where such document is held by a third party, particulars of such document and the name and address of that person; and
 - (vi) entries of the date on which every document evidencing title to a client's asset came into or left the possession or control of the investment provider.

(2) For the purpose of paragraph (1), an investment provider may accept and rely on records kept by a third party where such records are capable of being reconciled with records kept by the investment provider.

(3) An investment provider shall permit any client of the investment provider during business hours to inspect, either personally or by his agent, any entry in a record kept by the investment provider of matters relating exclusively to the client as soon as practicable and, in any event, not later than fourteen days from the date on which the investment provider receives a request from the client to carry out the inspection.

(4) An investment provider shall keep either at its principal office or registered office (or in the case of a Class A Registered Person, at the office of its senior representative), or in such a manner that it can be produced to the Authority within such period as the Authority may specify, the following records for the following periods in respect of all investment business conducted by or through the investment provider—

- (a) entry records which shall include account opening records, verification documentation and written introductions, for a period of at least five years from the date of the closing of the account;
- (b) account ledger records, for a period of five years from the date of the relevant transaction or series of transactions; and
- (c) supporting records, which shall include all records in support of ledger entries, credit and debit slips and cheques, for a period of five years from the date of the relevant transaction or series of transactions.

[Regulation 8 paragraph (4) amended by BR 84 / 2022 reg. 7 effective 27 July 2022]

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Information may be kept in electronic form

9 The information required to be kept by an investment provider under the Act or these Regulations may be recorded and kept by an investment provider in electronic form or such other form as the investment provider thinks fit, provided that it is possible to inspect the information and to produce a copy of it in legible form.

BR67/1999 revoked

10 The Investment Business Regulations 1999 are revoked.

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SCHEDULE

(regulation 8)

APPLICATION FORMS -
LICENSING AND REGISTRATION

This Schedule is published separately on the Authority's website, www.bma.bm.

[Schedule revoked and replaced by BR 84 / 2022 reg. 8 effective 27 July 2022]

[Amended by:

BR 84 / 2022]