



Jersey

**FINANCIAL SERVICES (INVESTMENT
BUSINESS (RESTRICTED INVESTMENT
BUSINESS – EXEMPTION)) (JERSEY)
ORDER 2001**

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FINANCIAL SERVICES (INVESTMENT BUSINESS (RESTRICTED INVESTMENT BUSINESS – EXEMPTION)) (JERSEY) ORDER 2001

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Jersey

FINANCIAL SERVICES (INVESTMENT BUSINESS (RESTRICTED INVESTMENT BUSINESS – EXEMPTION)) (JERSEY) ORDER 2001

THE ECONOMIC DEVELOPMENT COMMITTEE, in pursuance of Articles 4(1)(a)(i) and 7(2)(a)(ii) of the [Financial Services \(Jersey\) Law 1998](#), and on the recommendation of the Jersey Financial Services Commission orders as follows –

Commencement [[see endnotes](#)]

1 Interpretation

In this Order –

“Commission” means the Jersey Financial Services Commission;

“Law” means the [Financial Services \(Jersey\) Law 1998](#);

“professional investor regulated scheme” has the meaning given to that expression by Article 3;

“restricted investment business” has the meaning given to that expression by Article 2.

2 Meaning of “restricted investment business”

- (1) In this Order “restricted investment business” means the carrying on of all or any of the following activities by way of business –
 - (a) dealing in investments in relation to a professional investor regulated scheme, that is, buying, selling, subscribing for or underwriting investments, either as principal or as agent;
 - (b) dealing in investments in relation to investors in a professional investor regulated scheme, that is buying or selling investments, either as principal or agent;

- (c) discretionary investment management, that is, deciding as agent to buy, sell, subscribe for or underwrite investments for or on behalf of a professional investor regulated scheme;
- (d) giving investment advice to a professional investor regulated scheme, that is, giving advice on the merits of –
 - (i) the purchase, sale, subscription for or underwriting of a particular investment, or
 - (ii) the exercise of rights, conferred by an investment, to acquire, dispose of, underwrite or convert an investment.
- (2) In paragraphs (1)(a) and (b) –
 - (a) “buying” includes any acquisition;
 - (b) “selling” includes any disposal.
- (3) In paragraph (2)(b) “disposal” includes –
 - (a) in the case of an investment consisting of rights under a contract or other arrangements, assuming the corresponding liabilities under the contract or arrangements;
 - (b) in the case of any other investment, issuing or creating the investment or granting the rights or interests of which it consists;
 - (c) in the case of an investment consisting of rights under a contract, surrendering, assigning or converting those rights.

3 Meaning of “professional investor regulated scheme”

- (1) In this Order “professional investor regulated scheme” means an investment scheme referred to in paragraph (2) or (3).
- (2) An investment scheme securities in which were in issue 1st July 1999 is a professional investor regulated scheme if –
 - (a) the relevant consent had been issued in respect of the scheme before 1st July 1999; and
 - (b) each investor in the scheme, other than an investor who held securities in the scheme before 1st July 1999, received and signed an investment warning.
- (3) An investment scheme is a professional investor regulated scheme if –
 - (a) the relevant consent has been issued in respect of the scheme; and
 - (b) each investor in the scheme –
 - (i) has made a minimum subscription of £250,000 or is a professional investor, and
 - (ii) has received and signed an investment warning.
- (4) In this Article –
 - “1958 Order” means the [Control of Borrowing \(Jersey\) Order 1958](#);
 - “functionary” means a person who, in relation to a professional investor regulated scheme, acts as an agent or counter-party, and includes a

manager, investment manager, advisor, investment advisor, administrator, paying agent, distributor, subscription agent, placement agent, sales agent, dealer, trustee, custodian, custody agent, depository or general partner of the professional investor regulated scheme;

“investment scheme” includes any investment arrangement;

“investment warning”, in respect of an investor in a professional investor regulated scheme, means a warning issued in accordance with the terms of an offer relating to the subscription, purchase or exchange of securities made or to be made pursuant to an offer document stating –

- (a) that an investment in the scheme is only suitable for sophisticated investors who understand the risks involved in acquiring such an investment; and
- (b) that neither the scheme nor the activities of any functionary with regard to the scheme are subject to all the provisions of the [Financial Services \(Jersey\) Law 1998](#),

or a warning with words to the like effect approved by the Commission;

“professional investor”, in respect of a professional investor regulated scheme, means –

- (a) a person whose ordinary activities involve the person in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of the person’s business or who it is reasonable to expect will acquire, hold, arrange or dispose of investments (as principal or agent) for the purposes of that business;
- (b) any person who carries on investment business in relation to the professional investor regulated scheme;
- (c) any employee of a person referred to in paragraph (b) who is engaged in carrying on investment business in relation to the professional investor regulated scheme and, where the person referred to in paragraph (b) is a company, any director of that company and, where the person referred to in paragraph (b) is a partnership, any partner of that partnership; or
- (d) any company which is wholly owned by, or a limited partnership all the limited partners of which are, or a trust established for the benefit only of, one or more persons referred to in paragraph (b) or (c);

“relevant consent”, in respect of an investment scheme, means –

- (a) in the case of a body corporate, the consent of the Commission under Article 1, 2, 3 or 4 of the 1958 Order to the issue of securities in connection with the scheme or to the raising of money in Jersey by the issue of such securities;
- (b) in the case of a unit trust, the consent of the Commission under Article 9(1) of the 1958 Order to the issue of securities in connection with the scheme or to the raising of money in Jersey by the issue of such securities; or

- (c) in the case of a limited partnership, the consent of the Commission under Article 10 of the 1958 Order to the creation of securities in connection with the scheme or to the raising of money in Jersey by the creation of such securities;

“securities” means bonds, notes, commercial paper, debentures, debenture stock, instruments creating or acknowledging indebtedness, shares, units or interests under a limited partnership.

4 Exemption

- (1) In accordance with Article 7(2)(a)(ii) of the Law it is declared that the Law shall not apply to a person when, in relation to a professional investor regulated scheme, the person –
 - (a) acts as a functionary; and
 - (b) carries on restricted investment business.
- (2) In accordance with Article 4(1)(a)(i) of the Law, it is declared that the exemption conferred by paragraph (1) is amended so that it is limited to Article 7 of the Law.
- (3) Articles 12, 23, 24, 25, 26, 28, 32, 33, 34, 35, 36, 37, 38, 39 and 41 of the Law shall continue to apply to a person exempted from registration by virtue of paragraph (1) as if the person were a registered person.
- (4) A reference to registered persons in those Articles and the reference to persons registered by the Commission in Article 5 of the Law shall be construed accordingly.
- (5) In this Article “functionary” has the same meaning as in Article 3.

5 Citation

This Order may be cited as the Financial Services (Investment Business (Restricted Investment Business – Exemption)) (Jersey) Order 2001.

ENDNOTES

Table of Legislation History

Legislation	Year and Number	Commencement
Financial Services (Investment Business (Restricted Investment Business – Exemption)) (Jersey) Order 2001	R&O.10/2001	2 February 2001
Transfer of Functions (Economic Development Committee) (Jersey) Act 2003	R&O.101/2003	14 October 2003

Table of Renumbered Provisions

Original	Current
1(1)	1
1(2), (3), (4)	spent, omitted from this revised edition
5	spent, omitted from this revised edition
6	5

Table of Endnote References

There are currently no endnote references