



COLLECTIVE INVESTMENT SCHEMES ACT 2008

**COLLECTIVE INVESTMENT SCHEMES (PROMOTION OF SCHEMES  
OTHER THAN AUTHORISED AND RECOGNISED SCHEMES)  
(EXEMPTION) REGULATIONS 2010**

*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 2008<sup>a</sup>.

**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 2008<sup>b</sup> 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;

---

<sup>a</sup> 2008 c.7

<sup>b</sup> C8

Price £0.85

“client” includes a customer (and vice versa);

“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 2009<sup>c</sup>;

“recognised scheme” has the meaning given in Schedule 4 to the Act;

“retail investor” has the meaning given in the Financial Services Rulebook 2009<sup>d</sup>.

#### **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

---

<sup>c</sup> SD 738/09

<sup>d</sup> SD 737/09

- (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 2008<sup>e</sup>;
  - (c) to a person who is not a retail investor;
  - (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 1992<sup>f</sup> are revoked.

MADE 15<sup>th</sup> March 2010

*John Cashen*

Commissioner

*John Aspden*

Chief Executive

---

<sup>e</sup> C18

<sup>f</sup> GC 139/92

---

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations permit affected schemes to be exempted from section 3(1) of the Collective Investment Schemes Act 2008 in defined circumstances. The Regulations have the effect of permitting the promotion of such schemes subject to certain conditions being met.