

Statutory Document No. 2017/0345



Financial Services Act 2008

FINANCIAL SERVICES (EXEMPTIONS) (MISCELLANEOUS AMENDMENTS) REGULATIONS 2017

Approved by Tynwald:

Coming into Operation:

1 January 2018

The Isle of Man Financial Services Authority makes the following Regulations under section 44(2) and (3) of the Financial Services Act 2008 after carrying out the consultations required by section 44(5) of that Act.

1 Title

These Regulations are the Financial Services (Exemptions) (Miscellaneous Amendments) Regulations 2017.

2 Commencement

If approved by Tynwald, these Regulations come into operation on 1 January 2018.

3 Amendments to Schedule 1 to the Financial Services (Exemptions) Regulations 2011

- (1) Schedule 1 to the Financial Services (Exemptions) Regulations 2011 is amended as follows.
- (2) In paragraph 2.7 —
 - (a) for sub-paragraphs (1)(c) and (d) substitute —
 - (c)** the nominee company complies with the relevant provisions of the Rule Book relating to nominee bank accounts and clients' investments; and
 - (d) the licenceholder arranges for a Clients' Assets Report, complying with the requirements of rule 8.23(2) of the Rule Book, to be prepared annually and, when required by the Authority, to be reviewed by the licenceholder's

auditor and submitted to the Authority at a frequency to be determined by the Authority. **22**;

- (b) for sub-paragraphs (2)(b) and (c) substitute —
- 22**(b) the nominee company complies with the relevant provisions of the Rule Book relating to nominee bank accounts and clients' investments; and
 - (c) the Class 3 licenceholder arranges for a Clients' Assets Report, complying with the requirements of rule 8.23(2) of the Rule Book, to be prepared annually and, when required by the Authority, to be reviewed by the licenceholder's auditor and submitted to the Authority at a frequency to be determined by the Authority. **22**;
- (c) sub-paragraph (3) is omitted; and
- (d) in sub-paragraph (4), for "(4)" substitute **22**(3) **22**.
- (3) In paragraph 3.2 —
- (a) for sub-paragraph (1)(b), substitute —
 - 22** the conditions specified in —
 - (i) sub-paragraph (2); or
 - (ii) sub-paragraph (3),are met. **22**
 - (b) in sub-paragraph (2)(a), for "sub-paragraph (3)" substitute —
 - 22** sub-paragraph (4) **22**;
 - (c) after sub-paragraph 3.2(2), insert a new sub-paragraph (3) —
 - 22** The conditions referred to in sub-paragraph (1)(b)(ii) are that —
 - (a) the exempt person is responsible for satisfying itself that the criteria in sub-paragraph (4) are met; and
 - (b) no person in the same economic group as the exempt person is acting in the same capacity in relation to an exempt scheme or exempt-type scheme. **22**,and renumber the next sub-paragraph **22**(4) **22**;
 - (d) in sub-paragraph 3.2(4), for "sub-paragraph (2)" substitute —
 - 22** sub-paragraphs (2) and (3) **22**.
- (4) In paragraph 4.7 —
- (a) for sub-paragraph (1)(c)(iv) substitute —
 - 22** the holding of real property where the majority of that property is in the Isle of Man. **22**;

- (b) for sub-paragraph (2), at the end of the definition of “company” insert—
“or other type of collective investment scheme**”**;
- (c) after the definition of “permanent establishment” insert —
““real property” includes land and buildings including blocks of flats, apartments, houses or industrial units as well as shared areas such as car parks, gardens and access areas.**”**.
- (5) For “Class 7 – Management or administration services” substitute —
“Class 7 – Management or administration services**”**.

4 Amendments to Schedule 3 to the Financial Services (Exemptions) Regulations 2011

- (1) Schedule 3 to the Financial Services (Exemptions) Regulations 2011 is amended as follows.
- (2) In the definition of regulated entity, wherever occurring, for “Retirement Benefits Schemes Act 2000” substitute —
“Retirement Benefits Schemes Act 2000**”**.

MADE

K. BADGEROW

Chief Executive of the Isle of Man Financial Services Authority

G.F. KARRAN

Member of the Isle of Man Financial Services Authority

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Financial Services (Exemptions) Regulations 2011 as follows —

- (a) to change the exemption for Class 2 nominee companies to require compliance with the rules relating to nominee bank accounts in the Financial Services Rule Book and the preparation of a Clients' Asset Report in place of an auditors' letter relating to compliance with the relevant rules in Part 3 and 4 of the Financial Services Rule Book;
- (b) to add additional conditions relating to acting as manager, administrator, trustee, fiduciary custodian or custodian to no more than one collective investment scheme which is an exempt or exempt-type scheme;
- (c) to clarify the sole or principle business of holding the freehold of property in relation to the domestic services exemption in Class 4 and expand upon certain definitions related thereto.