



Jersey

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

**Official Consolidated Version**

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Jersey

# **FINANCIAL SERVICES (INVESTMENT BUSINESS (SPECIAL PURPOSE INVESTMENT BUSINESS – EXEMPTION)) (JERSEY) ORDER 2001**

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## **FINANCIAL SERVICES (INVESTMENT BUSINESS (SPECIAL PURPOSE 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](#);

“special purpose investment business” has the meaning given to that expression by Article 2;

“special purpose regulated scheme” has the meaning given to that expression by Article 3;

### **2 Meaning of “special purpose investment business”**

- (1) In this Order “special purpose 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 special purpose 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 special purpose 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 special purpose regulated scheme;

- (d) giving investment advice to a special purpose 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 paragraph (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 “special purpose regulated scheme”**

- (1) In this Order “special purpose regulated scheme” means an investment scheme referred to in paragraph (2) or (3).
- (2) An investment scheme securities in which were in issue on 1st July 1999 is a special purpose regulated scheme if –
  - (a) the relevant consent had been issued in respect of the scheme before 1st July 1999;
  - (b) it was established for a special purpose; and
  - (c) except in the case of a person who held securities in the scheme before 1st July 1999, securities in the scheme are issued or allotted exclusively to qualified professional investors.
- (3) An investment scheme is a special purpose regulated scheme if –
  - (a) the relevant consent has been issued in respect of the scheme;
  - (b) it was established for a special purpose; and
  - (c) securities in the scheme are issued or allotted exclusively to qualified professional investors.
- (4) In this Article –
  - “1958 Order” means the [Control of Borrowing \(Jersey\) Order 1958](#);
  - “functionary” means a person who, in relation to a special purpose 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 special purpose regulated scheme;

“investment scheme” includes any investment arrangement;

“investment warning”, in respect of an investor in a special purpose 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 the securities in question are only suitable for acquisition by a person who –
  - (i) has a significantly substantial asset base such that would enable the person to sustain any loss that might be incurred as a result of acquiring such securities, and
  - (ii) is sufficiently financially sophisticated to be reasonably expected to know the risks involved in acquiring the securities; 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” means 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 the person’s business;

“qualified professional investor” means –

- (a) a person who is a professional investor; or
- (b) a person who has received and acknowledged an investment warning;

“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;

“special purpose”, in respect of a special purpose regulated investment scheme, means that the only or principal purpose of the scheme is the securitization or repackaging of assets that involves the issue of securities or other capital market transaction or category of capital market transaction as the Commission may from time to time approve.

## **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 special purpose regulated scheme, the person –
  - (a) acts as a functionary; and
  - (b) carries on special purpose 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 (Special Purpose Investment Business – Exemption)) (Jersey) Order 2001.

## ENDNOTES

### Table of Legislation History

Legislation	Year and Number	Commencement
Financial Services (Investment Business (Special Purpose Investment Business – Exemption)) (Jersey) Order 2001	<a href="#">R&amp;O.11/2001</a>	2 February 2001
Transfer of Functions (Economic Development Committee) (Jersey) Act 2003	<a href="#">R&amp;O.101/2003</a>	14 October 2003

### Table of Renumbered Provisions

Original	Current
1(1)	1
1(2), (3)	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*