



BERMUDA

INVESTMENT BUSINESS (CLIENT MONEY) AMENDMENT REGULATIONS 2022

BR 85 / 2022

The Minister of Finance, in exercise of the power conferred by section 40 of the Investment Business Act 2003 after having consulted with the Bermuda Monetary Authority, makes the following Regulations:

Citation

1 These Regulations, which amend the Investment Business (Client Money) Regulations 2004 (the "principal Regulations") may be cited as the Investment Business (Client Money) Amendment Regulations 2022.

Amends regulation 2

2 Regulation 2 of the principal Regulations is amended—

- (a) by revoking the definition for "business day";
- (b) by revoking the definition for "collective investment schemes";
- (c) in the definition of "high income private investor" by deleting all the words and substituting "has the meaning given in section 9(3) of the Investment Funds Act 2006";
- (d) in the definition of "high net worth private investor" by deleting all the words and substituting "has the meaning given in section 9(3) of the Investment Funds Act 2006";
- (e) by revoking the definition for "investment services";
- (f) in the definition of "sophisticated private investor" by deleting all the words and substituting "has the meaning given in section 9(3) of the Investment Funds Act 2006";
- (g) by inserting the following definitions in their proper alphabetical order—

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“approved investor” means an individual who is both a “sophisticated private investor”, and either a “high net worth private investor” or a “high income private investor”;

“investment fund” has the meaning given in section 3 of the Investment Funds Act 2006;

“investment provider” has the meaning given in section 40(4) of the Act;”.

Amends regulation 4

3 Regulation 4 of the principal Regulations is amended—

(a) in paragraph (1)(b) by inserting after “Regulations” the words “on the investment provider”;

(b) in paragraph (2)(c)—

(i) by deleting the full-stop and substituting a semi-colon;

(ii) by inserting the following after subparagraph (c)—

“(d) must implement client money controls, based on the nature, scale and complexity of its business.”;

(c) by inserting the following after paragraph (2)—

“(3) A review of client money controls implemented by an investment provider pursuant to paragraph (2)(d), shall be conducted annually by a qualified person, who shall prepare a report on his findings.

(4) A copy of a report prepared by a qualified person pursuant to paragraph (3), shall be maintained by an investment provider at its registered office, or its principal place of business, or at the office of its senior representative, for not less than five years and shall be made available to the Authority upon request.

(5) For the purposes of this regulation, a “qualified person” means—

(a) an investment provider’s internal auditor;

(b) an investment provider’s approved auditor; or

(c) such person approved by the Authority in writing to perform the functions of a qualified person under paragraph (3).”.

Amends regulation 5

4 Regulation 5 of the principal Regulations is amended—

(a) in paragraph (1) by inserting after “provider” the words “receives, or”;

(b) in paragraph (3)(b) by deleting the word “business”.

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Amends regulation 6

- 5 Regulation 6 of the principal Regulations is amended—
- (a) in paragraph (3) by deleting the word “business”;
 - (b) in paragraph (4)—
 - (i) by revoking subparagraphs (a), (b), (c) and (d);
 - (ii) by inserting the following after subparagraph (d)—
 - “(da) an approved investor;
 - (db) an investment fund;”;
 - (iii) in subparagraphs (g) and (h) by deleting the words “subparagraph (d)” and substituting “subparagraph (db)”;
 - (c) in subparagraph (i)—
 - (i) by deleting the words “subparagraph (d)” and substituting “subparagraph (db)”;
 - (ii) by deleting the full-stop and substituting a semi-colon;
 - (d) by inserting the following after subparagraph (i)—
 - “(j) limited liability companies, all of whose members fall within one or more of the subparagraphs of this paragraph, except subparagraph (db);”.

Amends regulation 9

- 6 Regulation 9 of the principal Regulations is amended in paragraphs (1)(a), (2)(b) and (3) by deleting the word “business” at the three occurrences.

Amends regulation 17

- 7 Regulation 17(1)(c) of the principal Regulations is amended by deleting the word “business”.

Amends regulation 18

- 8 Regulation 18(2) of the principal Regulations is amended by deleting the word “business”.

Commencement

- 9 These Regulations come into operation on 27 July 2022.

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Made this 21st day of July 2022

Acting Minister of Finance

[Operative Date: 27 July 2022]