

**M O N T S E R R A T**

**NO. 1 OF 2008**

**MUTUAL FUNDS REGULATIONS 2008**

**ARRANGEMENT OF REGULATIONS**

REGULATIONS

1. Short title
2. Application for licence
3. Fit and Proper criteria

**MONTSERRAT**  
**STATUTORY RULES AND ORDERS**

**NO.            OF 2008**

**REGULATIONS MADE BY THE GOVERNOR IN COUNCIL UNDER SECTION 39 OF THE MUTUAL FUNDS ACT 2007.**

**Short title and commencement**

1. These Regulations may be cited as the Mutual Funds Regulations 2008.

**Application for licence**

2. (1) An application should contain all information that may be reviewed by the Commission under subsection (2) as well as any other information which the applicant considers should be disclosed to the Commission.

(2) In considering an application for registration or recognition of a fund, or for a licence under the Act, the Commission may review and investigate the—

- (a) validity of the documents submitted by the applicant;
- (b) financial condition and history of the applicant, including its owners and directors;
- (c) nature and reputation of the business of the applicant, including its owners and directors;
- (d) legal and management structure of the applicant;
- (e) experience of the person or persons who are to constitute its management;
- (f) adequacy of its financial structure;
- (g) business plan, which should include; the applicant's proposed fund description, marketing and operational plans, including policies and procedures to monitor and control major risk areas and 3 year financial projections covering investments, income and expenditure;
- (h) references supplied by the owners, directors and trustees of the applicant;
- (i) certificate of compliance of the supervisor in any jurisdiction where the fund may presently be registered or offered
- (j) other documentation and information as the Commission deems necessary.

**Fit and Proper criteria**

3. In conducting a test as to whether a person is a fit and proper person, the Commission shall have regard to the following minimum criteria—

- (a) the skills and experience in the relevant financial activity being applied for;
- (b) that person's probity, competence and soundness of judgement for fulfilling the responsibilities of that position;
- (c) the diligence with which that person is fulfilling or likely to fulfil the responsibilities of that position;
- (d) whether the interests of depositors, or potential depositors of the licensee or settlors and beneficiaries and potential settlors and beneficiaries are, or likely to be, in any way threatened by that person holding that position;
- (e) the previous conduct and activities in business or financial matters of that person;

- (f) whether there is evidence that that person has committed an offence involving fraud or other dishonesty or violence;
- (g) whether there is evidence that that person has contravened any provision under any enactment designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice or from financial loss due to the conduct of a discharged or undischarged bankrupt;
- (h) whether there is evidence that that person has been engaged in any business appearing to be deceitful or improper (whether lawful or not) or which otherwise reflects on that person's method of conducting business;
- (i) whether there is evidence of an employment record, which leads to the belief that that person carried out an improper act in the handling of his employer's or client's business;
- (j) whether there is evidence that that person has been associated with any other business practices or otherwise conducted himself in such a way as to cast doubt on his competence and soundness of judgement.

**Repeal**

4. The Exempt Mutual Fund Regulations 2000 (No. 20 of 2000) is hereby repealed.

Made by the Governor-in-Council this 3rd day of January, 2008.

Marjorie Smith (Sg.)  
Clerk of Councils (Ag.)

Published by exhibition at the Clerk of Councils Office, Farara Plaza, Brades, this 17<sup>th</sup> day of January, 2008.

Marjorie Smith (Sg.)  
Clerk of Councils (Ag.)



