

TURKS AND CAICOS ISLANDS
THE MUTUAL FUNDS ORDINANCE 1998
(Ordinance 13 of 1998)

Arrangement of Sections

PART I

PRELIMINARY

Section

1. Citation and commencement
2. Interpretation

PART II

MUTUAL FUNDS

3. Mutual funds to be registered , recognised or licensed
4. Registered mutual funds
5. Recognised mutual funds
6. Licensed mutual funds
7. Applications for registration and recognition of mutual funds
8. Applications for licensing of mutual funds
9. Fees
10. Exempt mutual funds

PART III

MUTUAL FUNDS ADMINISTRATION

Mutual Funds Administrator

11. Mutual funds administrator to be licensed
12. Application for licence

13. Mutual funds administrator's licence
14. Conditions of mutual funds administrator's licence
15. Duty to report

Additional requirements

16. Mutual funds administrator to disclose beneficial interest
17. Restriction on transfer of interest
18. Mutual funds administrator to have two directors
19. Mutual funds administrator's returns

PART IV

SUPERINTENDENT OF MUTUAL FUNDS

20. The Superintendent and his functions
21. Powers of the Superintendent
22. Search warrants
23. Confidentiality
24. Disclosure of information
25. Immunity

PART V

SUPERVISION AND ENFORCEMENT

26. Examination of affairs of mutual funds administrator
27. Supreme Court to make orders preserving assets
28. Revocation of licences

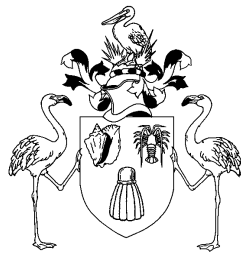
PART VI

SUPPLEMENTARY

29. Licences to be displayed
30. Restriction on use of certain words and titles

31. Offences

32. Regulations



TURKS AND CAICOS ISLANDS

THE MUTUAL FUNDS ORDINANCE 1998

(Ordinance 13 of 1998)

Assent *December 17, 1998*

Publication in Gazette *January 4, 1999*

Commencement *In accordance with section 1*

AN ORDINANCE TO MAKE PROVISION FOR THE LICENSING AND REGULATION OF MUTUAL FUND ADMINISTRATORS AND MANAGERS; AND FOR MATTERS INCIDENTAL OR RELATED THERETO.

ENACTED by the Legislature of the Turks and Caicos Islands.

PART I

PRELIMINARY

Citation and commencement

1. This Ordinance may be cited as the Mutual Funds Ordinance 1998 and shall come into operation on such day as the Governor may appoint by notice published in the Gazette.

Interpretation

2. In this Ordinance, unless the context otherwise requires –

"accountant" means a person who-

(a) is qualified as an accountant by examination of one of the institutes of Chartered Accountants or Certified Accountants in England and Wales, Ireland or Scotland or the Canadian Institute of Chartered Accountants or the American Institute of Certified Public Accountants and is a current member in good standing of one of those institutes; or

(b) possesses such other qualifications in accounting recognised by the Permanent Secretary, Finance for the purposes of this Ordinance;

"auditor" means an accountant or a firm of accountants holding a current certificate issued by the Permanent Secretary, Finance certifying that in his opinion such person is of good

standing and qualified to undertake the audit of mutual funds;

"company" means a body corporate incorporated under the laws of the Islands or of any other jurisdiction;

"equity interest" means a share, a trust unit, or a partnership interest that carries an entitlement to participate in the profits or gains of the company, unit trust or partnership, and is redeemable or repurchasable at the option of the investor;

“exempt mutual fund” means a fund to which section 10 applies;

"general partner" means a general partner as defined in the Limited Partnerships Ordinance, 1992; or in case of a foreign limited partnership, the person who would be a general partner if the partnership were constituted under that Ordinance;

No. 17 of 1992

"Governor" means the Governor in Council;

“Islands” means the Turks and Caicos Islands ;

"investor" in respect of a mutual fund, means the legal holder of record representing an equity interest in the mutual fund but does not include a promoter or operator;

“licensed mutual fund” means a mutual fund licensed under section 8;

"mutual fund" means a company, a unit trust or a partnership that issues equity interests, the purpose or effect of which is the pooling of investors funds with the aim of spreading investment risks and enabling investors in the mutual fund to receive profits or gains from the acquisition, holding, management or disposal of investments, but does not include a person licenced under the Banking Ordinance 1979, the Insurance Ordinance 1989 or the Trustees (Licensing) Ordinance 1992;

*No. 11 of 1981
No. 17 of 1992
No. 15 of 1992*

“mutual fund administration” in respect of a mutual fund , means-

- (a) to manage the mutual fund;
- (b) to control all or substantially all of the assets of the mutual fund;
- (c) to administer the mutual fund;
- (d) to provide the principal office of the mutual fund in the Islands; or
- (e) to provide an operator to the mutual fund,

but does not include –

No. 11 of 1981
No. 17 of 1992
No. 15 of 1992

(aa) the provision of a registered office to the mutual fund where the usual corporate, secretarial and related services are provided, or the filing of returns and payment of fees under any of the Companies Ordinance; the Limited Partnerships Ordinances or the Trustees (Licensing) Ordinance ; or

(bb) the activities of a general partner of a partnership which is a mutual fund;

“mutual funds administrator” means a company or partnership which conducts mutual fund administration in or from within the Islands and shall be –

(a) company incorporated in the Islands;

No. 11 of 1981

(b) a foreign company incorporated outside the Islands registered under Part X of the Companies Ordinance;

No. 17 of 1992

(c) a limited partnership registered under the Limited Partnerships Ordinance; or

(d) a partnership constituted for the sole purpose of undertaking the administration of mutual funds.

"operator", in respect of a mutual fund, means-

(a) where the mutual fund is a unit trust, a trustee of that trust; or

(b) where the mutual fund is a partnership, a general partner in that partnership; or

(c) where the mutual fund is a company , a director of that company;

No. 17 of 1992

"partnership" means a partnership constituted under the laws of the Islands or under the laws of a country or territory other than the Islands;

"professional adviser" means an attorney, an accountant or other qualified professional adviser;

"promoter", in respect of a mutual fund, means any person whether within or without the Islands who causes the preparation or distribution of a prospectus in respect of the mutual fund or proposed mutual fund but does not include a professional adviser acting for or on behalf of such a person;

"prospectus" in respect of a mutual fund, means a document, or series of documents, on the basis of which –

- (a) equity interests in the mutual fund are offered for sale; or
- (b) persons are invited to subscribe for, or purchase equity interests in, the mutual fund;

but does not include any other notice, circular, advertisement, letter or other communication used in connection with the offer for sale of any equity interest in the mutual fund or the invitation to any person to subscribe for or purchase any equity interest in the mutual fund if before the offer or invitation is taken up or accepted the prospective investor is given the opportunity to consider a prospectus containing such information as is necessary to enable a prospective investor in a mutual fund to make an informed decision as to whether or not to subscribe for or purchase the equity interest.

"record" means any means by which information may be stored;

“registered mutual fund” means a fund to which section 4 applies;

“recognised mutual fund” means a fund to which section 5 applies;

"share" means a share in the share capital of a mutual fund company and includes an interest in a mutual fund partnership and a unit in a mutual fund unit trust;

"Superintendent" means the person for the time being holding the office of Superintendent of Mutual Funds;

"trust unit" means a unit of participation in a unit trust;

"unit trust" means a trust established by a trustee which for valuable consideration issues trust units in profits or gains arising from the acquisition, holding, management or disposal of investments by the trustee of the trust.

PART II

MUTUAL FUNDS

3. (1) Except as otherwise provided by this Part, it shall be an offence for the operator of a mutual fund to cause a mutual fund to carry on or attempt to carry on business in or from within the

Mutual funds to be registered, recognised or licensed

Islands unless such fund is registered or recognised under section 7 or licensed under section 8.

(2) For the purpose of this section, a mutual fund carries on or attempts to carry on business in or from the Islands if –

(a) it is incorporated or established in the Islands; or

(b) regardless of its place of incorporation its administration is carried on in the Islands.

(3) A person who is guilty of an offence under subsection (1) shall be liable on summary conviction to a fine of \$100,000.

Registered mutual fund

4. (1) This section applies to a mutual fund constituted under the laws of the Islands –

(a) that is only authorised to issue equity interests to investors who meet the prescribed qualifications; or

(b) in which the equity interests are listed on a stock exchange (including over the counter market) recognised by the Permanent Secretary, Finance for the purposes of this section ; and the Permanent Secretary, Finance shall cause a notice to that effect to be published in the Gazette.

(2) An application for the registration of a mutual fund to which this section applies shall be made in accordance with section 7.

Recognised mutual fund

5. (1) This section applies to a mutual fund –

(a) that is constituted under the laws of a foreign country or territory; and

(b) the equity interests of which are listed on a stock exchange (including over the counter market) specified by the Permanent Secretary, Finance by notice published in the Gazette.

(2) An application for the recognition of a mutual fund to which this section applies shall be made in accordance with section 7.

Licensed mutual fund

6. (1) This section applies to a mutual fund that does not qualify under section 4 or section 5.

(2) An application for the licensing of a mutual fund to which this section applies shall be made in accordance with section 8.

7. (1) An application for the registration of a mutual fund to which section 4 applies or the recognition of a mutual fund to which section 5 applies, shall be made to the Permanent Secretary, Finance in the prescribed form by a mutual funds administrator by or on behalf of the mutual fund, and shall be accompanied with –

Applications for registration and recognition of mutual funds

- (a) evidence of the matters referred to in section 4(1) or 5(1), as the case may be;
- (b) particulars of the qualifications and experience of each promoter of the fund;
- (c) the current prospectus or, if one has not been finally settled, the latest draft of the prospectus together with a synopsis of the prospectus; and
- (d) the prescribed application fee.

(2) The Permanent Secretary, Finance upon being satisfied that each promoter is of sound reputation, and that a mutual funds administrator will be providing an office in the Islands for the fund shall register or, as the case may be, recognise the mutual fund for the purposes of this Ordinance, and shall cause a notice to that effect to be published in the Gazette.

(3) A decision of the Permanent Secretary, Finance refusing to register or recognise a mutual fund under this section is final and is not subject to any appeal.

8. (1) An application for the licensing of a mutual fund to which section 6 applies, shall be made to the Permanent Secretary, Finance in the prescribed form, and shall be accompanied with the prescribed particulars and fee.

Applications for licensing of mutual funds

(2) The Permanent Secretary, Finance may require the applicant to supply such information and provide such documents for examination as in his opinion are necessary or expedient to enable him to determine whether a licence should be granted and the terms and conditions which any licence ought to contain.

(3) The Permanent Secretary, Finance upon being satisfied that each promoter is of sound reputation and that the arrangements for the administration of the fund are satisfactory, may license the mutual fund and may include in the licence such terms and conditions as he thinks fit to impose.

(4) The Permanent Secretary, Finance may vary a licence which he has issued under this section on the application of the licensee.

(5) A decision of the Permanent Secretary, Finance refusing to licence a mutual fund under this section or including terms and conditions in a licence is final and not subject to any appeal.

Fees

9. (1) A mutual fund which is either registered or recognised under section 7 or licensed under section 8, shall pay the prescribed fee for the year in which it is first registered, recognised or licensed, as the case may be.

(2) A mutual fund registered or recognised under section 7 or licensed under section 8 shall, on or before the thirty-first day of March every year following the year of registration, recognition or licensing, as the case may be, pay the prescribed annual fee.

(3) If the annual fee is not paid on or before the thirty-first day of March, there shall be payable by the mutual fund in addition to the annual fee, a penalty fee equal to the annual fee for each month or part of a month during which the annual fee imposed by virtue of this section remains unpaid; and the Crown may sue for such amount as a civil debt.

Exempt mutual funds

10. (1) A mutual fund in which the equity interests are held by not more than fifteen investors, the majority of whom are capable of appointing or removing the operator of the fund is exempt from the requirements of this Part.

(2) A mutual fund that is only authorised to issue equity interests to professional investors is exempt from the requirements of this Part if at all times a mutual funds administrator provides an office in the Islands for the fund.

(3) For the purposes of subsection (2), a person is a professional investor if he satisfies the prescribed qualifications

PART III

MUTUAL FUNDS ADMINISTRATION

Mutual Funds Administrator

Mutual funds administrator to be licensed

11. (1) Except as otherwise provided in this Ordinance, it shall be an offence for a person to conduct mutual fund administration in or from within the Islands –

(a) without being in possession of a licence issued under this Part authorising him to do so; or

(b) in breach of any condition of his licence.

(2) A person guilty of an offence under subsection (1)(a) shall be liable on summary conviction to a fine of \$100,000.

(3) A person guilty of an offence under subsection (1)(b) shall be liable on summary conviction to a fine of \$50,000.

12. (1) A company or a partnership may apply to the Permanent Secretary, Finance in the prescribed form for the grant of a mutual funds administrator's licence or a restricted mutual funds administrator's licence.

Application for licence

(2) An application for a licence under this section shall be accompanied with –

(a) particulars of the qualifications and experience of the applicant;

(b) such further particulars and documents as the Permanent Secretary, Finance may require to be furnished to him for the purpose of determining the application;

(c) the prescribed fee.

13. (1) The Permanent Secretary, Finance upon being satisfied that the applicant is qualified to administer mutual funds by virtue of his knowledge and experience and is in all respects a fit and proper person to administer such funds, may grant the applicant -

Mutual funds administrator's licence

(a) a mutual funds administrator's licence in the prescribed form that authorises the licensee to conduct mutual fund administration in respect of an unlimited number of mutual funds, or

(b) a restricted mutual funds administrator's licence in the prescribed form that authorises the licensee to conduct mutual fund administration only in respect of the mutual funds specified from time to time in the licence,

and shall cause a notice to that effect to be published in the Gazette.

(2) Without prejudice to section 14, the Permanent Secretary, Finance may include in a licence in any particular case such conditions as appear to him to be necessary or expedient.

(3) A decision of the Permanent Secretary, Finance refusing to license an administrator under this section or including a condition in a licence is final and is not subject to any appeal or review.

Conditions of
mutual funds
administrator's
licence

14. It shall be a condition of every licence granted under section 13 that the licensee shall at all times act in good faith and in the interests of the investors in the mutual funds and –

(a) in respect of every mutual fund which it is administering –

(i) shall cause annual accounts to be prepared in accordance with generally accepted accounting principals acceptable to the Permanent Secretary, Finance and audited by an independent auditor, and shall submit such accounts to the investors in the fund within four months of the end of the financial year;

(ii) shall, within thirty days of its occurrence, notify the Superintendent of any change, or proposed change, in the information (including any business plan or prospectus) contained in, or supplied in connection with, the application for the registration, recognition or licensing of the mutual fund, as the case may be;

(iii) shall ensure that the current prospectus in respect of equity interests in the mutual fund shall at all times describe the equity interests in all material respects; and shall contain such other information as is necessary to enable a prospective investor in the mutual fund to make an informed decision as to whether or not to subscribe for or purchase the equity interests; and shall ensure that each such current prospectus be filed with the Superintendent;

(iv) shall file within twenty-one days of its occurrence, an amended prospectus with the Superintendent if at any time there is any change that materially affects any information in a prospectus filed with the Superintendent or in the prescribed details of such prospectus;

(iv) shall maintain such records, prepare such reports and provide such information as may be required by this Ordinance;

- (v) shall ensure that the prescribed annual fees are paid in a timely manner;
- (b) in respect of the business of mutual funds administrator –
 - (i) shall cause annual accounts to be prepared in accordance with generally accepted accounting principles acceptable to the Permanent Secretary Finance and audited by an independent auditor, and shall submit such accounts to the Superintendent within such reasonable time as the Superintendent specifies;
 - (ii) shall carry on such business only in accordance with the information referred to in its application for a licence;
 - (iv) shall ensure that the prescribed annual fees are paid in a timely manner.

15. It shall be the duty of a mutual funds administrator to report to the Superintendent -

Duty to report

- (a) any concerns it may have regarding the honesty, good character or conduct of any operator or manager of a mutual fund under its administration, or the solvency of that operator or manager or of the mutual fund;
- (b) forthwith upon its occurrence, any amendment or termination of an agreement between it and a mutual fund which it administers.

Additional requirements

16. Every mutual funds administrator shall disclose ownership, beneficial interest and shareholdings in that company or partnership, and the following specific requirements shall apply-

Beneficial interest to be disclosed

- (a) in the case of a company the articles of association shall prohibit the issue of bearer shares in any form;
- (b) in the case of a limited partnership, the register of members shall be disclosed and ultimate beneficial owners of partnership units identified.

17. (1) Notwithstanding any law to the contrary-

Restriction on transfer of interest

- (a) no transfer or other disposition of any interest in a mutual funds administrator, or of any dealing in such an interest; and
- (b) no appointment of any new or additional director or manager of a mutual funds administrator,

shall have effect unless such transfer, disposition or dealing or appointment has been approved by the Permanent Secretary, Finance.

(2) Where any interest in the mutual funds administrator is to be transferred or disposed of from one person to another or dealt in or where a new or additional director or manager of the mutual funds administrator is to be appointed, the mutual funds administrator shall apply to the Permanent Secretary, Finance for approval of such transfer, disposition or dealing or appointment; and the Permanent Secretary, Finance may give his approval unconditionally or subject to conditions.

Mutual funds administrator to have two directors

18. Every mutual funds administrator which is a company shall provide in its Articles of Association that there be not less than two directors at any time and further shall ensure that there are two directors at all times.

Mutual funds administrator's returns **19.** (1) Every mutual funds administrator shall furnish to the Superintendent, no later than the first day of March in each year, the following returns in respect of each fund that it has administered during the preceding calendar year -

- (a) a list of all mutual funds for which it acts indicating any additions or deletions which have occurred since the previous annual return;
- (b) a list of all exempt mutual funds for which it acts indicating any additions or deletions which have occurred since the previous annual return;
- (c) a certificate signed by a director or partner of the administrator stating that to the best of his knowledge and belief the administrator of such fund has conducted its business properly and in compliance with the Ordinance and any conditions attached to its licence.

(2) The Permanent Secretary, Finance may prescribe additions, deletions or modifications to the returns required to be made under this section.

PART IV
SUPERINTENDENT OF MUTUAL FUNDS

20. (1) The Governor may by instrument in writing appoint a Superintendent of Mutual Funds whose office shall be a public office.

The
Superintendent
and his functions

- (2) The functions of the Superintendent shall be -
- (a) to maintain a general review of the operations of mutual funds and mutual funds administrators in or from within the Islands;
 - (b) to ensure that the provisions of this Ordinance are complied with by mutual funds administrators and other persons;
 - (c) to examine annual returns delivered to him under section 19, and report to the Permanent Secretary, the results of such examination;
 - (d) to examine and make recommendations to the Permanent Secretary, Finance with respect to applications for licences under this Ordinance.

21. In the performance of his functions under this Ordinance, and subject to the provisions of this Ordinance, the Superintendent may -

Powers of the
Superintendent

- (a) at any reasonable time have access to the books, records, vouchers, documents, contracts, correspondence and financial records of any kind of any mutual funds administrator;
- (b) at any reasonable time call upon any mutual funds administrator or officer designated by the mutual funds administrator for such information or explanation as the Superintendent may reasonably require for the purpose of enabling him to perform his functions under this Ordinance;
- (c) direct any mutual funds administrator to have an immediate independent audit performed of the accounts of a mutual fund which it administers upon any date specified by the Superintendent, and to submit the accounts to the Superintendent within such reasonable time as the Superintendent may determine; and

(d) on his own motion or when so required by the Permanent Secretary, Finance, to examine the affairs or business of any mutual funds administrator or any other person carrying on, or who at any time since the coming into operation of this Ordinance has carried on the business of a mutual funds administrator, for the purpose of ensuring-

- (i) that the mutual funds administrator is complying with the provisions of this Ordinance or the conditions of its licence;
- (ii) that the mutual funds administrator is of sound financial position and is carrying on its business in a satisfactory manner,

and shall report to the Permanent Secretary, Finance the results of such examination;

(3) The Superintendent, with the approval of the Permanent Secretary, Finance, may authorise in writing any person to assist him whether generally, or in relation to a particular matter, in the performance of his functions and the exercise of his powers under this Ordinance.

Search warrants

22. If a judge is satisfied on information on oath given by the Superintendent that-

- (a) a mutual funds administrator refuses to comply with a request of the Superintendent made under section 21(a) to have access to books, documents, etc; or
- (b) there are reasonable grounds for suspecting that an offence against this Ordinance has been or is being committed and that evidence of the commission of the offence is to be found at any premises or in any vehicle, vessel or aircraft specified in the information,

he may grant a search warrant authorising the Superintendent, together with any other person named in the warrant, to enter and search such premises, vehicle, vessel or aircraft and to seize any books, documents etc., found therein for the purpose of the inquiry and may make such other ancillary orders as may be requested by the Superintendent.

Confidentiality

23. Except for the purpose of performing his functions under this Ordinance or when lawfully required to do so by a court of competent jurisdiction or under the provisions of any other law, neither the Superintendent nor any person acting under his

authority nor a person performing duties under this Ordinance shall disclose any information relating to any application made under this Ordinance or to the affairs of a mutual funds administrator which he has acquired in the performance of his duties or the exercise of his functions under this Ordinance.

24. (1) For the purpose of assisting an overseas regulatory authority which has requested information in connection with inquiries being carried out by it, the Superintendent acting in his discretion and having first consulted the Governor may disclose to it such information which he has acquired in connection with the performance of his duties or in the exercise of his functions under this Ordinance as he considers appropriate.

Disclosure of
information

(2) An "overseas regulatory authority" means an authority which in a country or territory outside the Islands exercises any functions corresponding to the functions of the Superintendent under this Ordinance, the functions of Superintendent of Banking under the Banking Ordinance, the functions of Superintendent of Trustees under the Trustees (Licensing) Ordinance, the functions of Superintendent of Insurance under the Insurance Ordinance or the functions of the Superintendent of Company Management under the Company Management (Licensing) Ordinance.

(3) The Superintendent shall not disclose any such information to the authority unless he is satisfied –

- (a) that the information requested by the authority is for the purposes of its regulatory functions ;
- (b) that the request is not for information that is related directly or indirectly to the imposition, calculation and collection of taxes or the enforcement of exchange control regulations; and
- (c) that the authority is subject to adequate legal restrictions on further disclosures.

(4) The Governor acting in his discretion may from time to time issue guidelines to the Superintendent concerning the discharge of his functions under this section; and the Superintendent shall have regard to any such guidelines in the discharge of his functions under this section.

25. No liability attaches to the Permanent Secretary, Finance, the Superintendent, or any person acting under the authority of the Permanent Secretary, Finance or the Superintendent for an act done in good faith in the discharge or purported discharge of his functions under this Ordinance.

Immunity

PART V
SUPERVISION AND ENFORCEMENT

Examination of
affairs of mutual
funds
administrator

26. (1) Where the Superintendent has reasonable grounds for believing that a mutual funds administrator-

- (a) has ceased to carry on the business for which it was licensed;
- (b) is carrying on business while insolvent;
- (c) has gone into liquidation, has been wound up or is otherwise dissolved;
- (d) has undertaken business other than that for which it is licensed at the time;
- (e) has carried on business in contravention of the provisions of this Ordinance or any other law;
- (f) is carrying on business in contravention of any of the conditions subject to which the licence was granted or has had imposed upon it;
- (g) is carrying on business in a manner which is likely to be detrimental to the interest of the public, its creditors or investors in a mutual fund;
- (h) is carrying on business in a manner which falsely represents its status or licence or which would be deemed as misrepresentation,

the Superintendent shall undertake an examination of the affairs of the mutual funds administrator and may take any of the actions specified in subsection (2).

(2) Where the Superintendent undertakes an examination pursuant to subsection (1), he may -

- (a) impose upon the mutual fund administrator a prohibition on the acceptance of any new inward investment in a mutual fund for such time or until the happening of such event as he may specify;
- (b) appoint (at the expense of the mutual funds administrator) an alternative administrator of a mutual fund to act as conservator in the best interests of the investors in the fund;

- (c) direct the mutual funds administrator to provide additional capital or provide suitable guarantees or other financial support as he thinks fit;
- (d) direct the mutual funds administrator to refrain from making investments of a specified class or of more than a specified percentage of the fund in any specified class.

27. (1) Where the Superintendent is undertaking an examination of the affairs of a mutual funds administrator under section 26 he may apply to the Supreme Court for directions, and the Supreme Court may –

Supreme Court to make orders preserving assets

- (a) make such orders as it thinks fit to protect the interest of investors in and creditor of, the mutual funds administered by the mutual funds administrator and the creditors of any such mutual funds administrator; and
- (b) order that the assets, books or other papers of the mutual funds and the mutual funds administrator be preserved, not moved or otherwise disposed of.

(2) Where an order has been made by the Supreme Court under subsection (1), the mutual funds administrator may at any time apply to the Supreme Court for the discharge of such order and the Supreme Court may thereupon discharge, vary or confirm that order.

28. (1) The Permanent Secretary, Finance may, after considering any report submitted to him by the Superintendent under section 21(d) revoke a licence.

Revocation of licences

(2) Notice of revocation of a licence under this section shall be given to the mutual funds administrator by the Permanent Secretary, Finance within twenty four hours and shall be published in the Gazette as soon as is practicable.

(3) The revocation of a licence under this section shall be final and not subject to any appeal.

PART VI SUPPLEMENTARY

29. A licence issued under this Ordinance shall be prominently displayed on the premises where the business of the licensee is being carried on.

Licence to be displayed

Restriction on use of certain words and titles without approval of Permanent Secretary, Finance

30. (1) No person shall, without the approval in writing of the Permanent Secretary, Finance, in any description or title under which he carries on business in or from within the Islands use (whether in English or in any other language) any word which implies the carrying on business as a mutual fund or a mutual fund administrator including but not limited to "Mutual Fund", "Fund Manager", "Growth Fund", and "Income Fund".

(2) The Permanent Secretary, Finance may refuse to grant a mutual fund licence under this Ordinance in respect of an applicant fund in a name that –

- (a) is identical with that of any company, firm, business or other entity, whether or not within the Islands, or which so nearly resembles the name of such a company, firm, business or entity as to be likely to deceive; or
- (b) is likely to suggest, falsely, the patronage of or connection with some person or authority, whether within the Islands or elsewhere; or
- (c) is likely to suggest, falsely, that the fund has a special status in relation to or derived from Government or the Crown.

(3) If, in the opinion of the Permanent Secretary, Finance, a mutual fund is carrying on business in or from within the Islands in a name that the Permanent Secretary, Finance would have refused by virtue of subsection (2) the Permanent Secretary, Finance may direct the mutual fund to change its name to a name approved by him.

(4) The operator of a mutual fund shall ensure that the fund complies with a direction given to it in accordance with subsection (3).

Offences

31. (1) Any person who, without reasonable cause, contravenes any prohibition, or fails to comply with any direction made by the Superintendent or the Permanent Secretary, Finance under this Ordinance commits an offence and shall be liable on summary conviction to a fine of \$50,000.

(2) Any person who in compliance or purported compliance with this Ordinance makes any representation that he knows to be false or does not believe to be true (the onus of proof of his belief being upon him) commits an offence and shall be liable on summary conviction to a fine of \$50,000.

Regulations

32. The Governor may make regulations for carrying out the purposes of this Ordinance and, without derogating from the generality of the foregoing, may make regulations -

- (a) prescribing anything by this Ordinance required to be prescribed;
- (b) exempting any person or class of persons or business or class of business from any provision of this Ordinance;
- (c) prescribing the forms to be used;
- (d) prescribing the format of any returns to be made under this Ordinance;
- (e) prescribing the capital and liquidity margins and ratios to be maintained by mutual funds administrators under this Ordinance;
- (f) amending the fees payable under this Ordinance;
- (g) prescribing such other things as are required to be prescribed under this Ordinance or may be incidental to, or conducive of, its purpose.