

**Sovereign Order 1.284 of 10 September 2007 implementing
Act 1.338 of 7 September 2007 on financial activities**

**ALBERT II
BY THE GRACE OF GOD
SOVEREIGN PRINCE OF MONACO**

Having regard to Article 68 of the Constitution;

Having regard to Act 1.338 of 7 September 2007 on financial activities;

Having regard to the decision of the Government Council of 5 September 2007 communicated to Us by Our Minister of State;

Have ordered and order:

Section I – Minimum capital

ARTICLE 1

The minimum amount of the share capital of Monacan *société anonymes* referred to at Article 6 of Act 1.338 of 7 September 2007 shall be:

1) €450,000 for companies authorised to engage in the activity referred to at Article 1(1) of Act 1.338 of 7 September 2007 and the management of foreign collective investment schemes referred to at Article 1(6);

2) €150,000 for companies authorised to engage in the activity referred to at Article 1(2) of Act 1.338 of 7 September 2007 whose assets under management amount to less than €250 million. An additional €40,000 euros of share capital is required for each additional €200 million tranche of assets under management;

3) €300,000 for companies authorised to engage in the activities referred to at Article 1(3), (4) and (5) of Act 1.338 of 7 September 2007;

4) €1.9 million for companies authorised to engage in the activities referred to at Article 1(7) of Act 1.338 of 7 September 2007.

The amounts referred to at figures (1) and (3) above may be reduced to €150,000 where 50% of the share capital is held by a credit institution or insurance or reinsurance company, provided that the institution or company in question has share capital of at least €2 million.

ARTICLE 2

Without prejudice to the amounts mentioned at Article 1, the amount of own funds of a company wishing to offer units of its products outside the Principality may never be less than one quarter of the previous year's administration expenses as defined by Sovereign Order 3.955 of 5 February 1968.

Section II – Application for authorisation

ARTICLE 3

The application for authorisation referred to at Article 7 of Act 1.338 of 7 September 2007 must be sent to the Commission. As regards the business conducted in the Principality, it shall include documents relating to:

- 1) the identity, status and quality of each contributor of capital, whether direct or indirect, individuals or legal entities, and the amount of their equity interest; their status and quality is assessed with regard to the need to guarantee sound and prudent management;
- 2) the premises where the activity is carried on and the nature of the company's right to such premises;
- 3) the different activities in which the company intends to engage, the instruments and markets in or on which it wishes to trade and the planned commercial policy;
- 4) the identity of at least two of the persons who effectively determine the company's policy and management; where such persons engage in other activities, either individually or through another company, the nature of such activities and the conditions under which they are exercised must also be stated;
- 5) the total number of employees and a detailed organisation chart showing the managers responsible for the activities carried on and the company's hierarchical structure; if persons collaborating in the management of client portfolios are not employed directly by the company, the identity of their employer should be stated;
- 6) any delegations to other organisations (a description of delegatee organisations should be attached);
- 7) the identity of intermediaries responsible for executing orders;
- 8) the monitoring and management control procedures introduced in line with the activities carried on;
- 9) models of the mandates proposed to customers.

Companies that intend to manage foreign collective investment schemes must also provide information about the scheme, the depositary institution and their clients.

The Financial Activities Supervisory Commission instituted at Article 10 of Act 1.338 of 7 September 2007 may ask the applicant for all additional information necessary for it to take its decision.

Section III – Delegations

ARTICLE 4

If an authorised company delegates one or more of its activities, it must fulfil the following conditions:

- 1) the company may not delegate all its activities;
- 2) management of collective investment schemes may be delegated to a foreign company only if the Financial Activities Supervisory Commission and the supervisory authority of the foreign country concerned have concluded a cooperation agreement; however, this requirement does not apply to companies that do not wish to offer units in their products outside the Principality;
- 3) the delegatee must furnish proof that it has the necessary skills to carry on the delegated activities;

4) the senior managers of the delegating company must at all times monitor the delegatee's exercise of the delegated activities.

The delegating company shall remain liable for the delegated activities.

ARTICLE 5

The delegation must state:

- 1) the type of delegation given, its scope and duration;
- 2) the delegatee's organisation and material and financial resources;
- 3) the method for remunerating the delegatee;
- 4) procedures whereby the delegatee provides information to the authorised company;
- 5) the controls introduced by the delegator;
- 6) the conditions for revoking delegations.

Section IV – Prudential rules

ARTICLE 6

Pursuant to the provisions of Article 23 of Act 1.338 of 7 September 2007, authorised companies are required to comply with prudential rules. Inter alia, they must:

- 1) implement appropriate administrative and accounting arrangements and security and internal and external control procedures, especially as regards trading for own account and their employees' own personal transactions;
- 2) be structured and organised in such a way as to minimise all risk of conflicts of interest.

Section V – Rules of good conduct

§ I: General provisions

ARTICLE 7

Pursuant to the provisions of Article 23 of Act 1.338 of 7 September 2007, authorised companies are required to comply with rules of good conduct intended to guarantee investor protection and the lawful nature of transactions. Inter alia they must:

- 1) act honestly and fairly in the best interests of their clients and the integrity of the market;
- 2) conduct their business with the requisite skills, care and diligence in the best interests of their clients and the integrity of the market;
- 3) have the resources and procedures required to run their business, and apply those resources and procedures with due regard for efficiency;
- 4) endeavour to avoid conflicts of interest and, if such conflicts cannot be avoided, ensure that their customers are treated fairly;
- 5) comply with all the regulations applicable to the conduct of their business in order to promote the best interests of their clients and the integrity of the market.

ARTICLE 8

Authorised companies shall refrain from taking any initiative whose intention or effect would be to put their own interests before those of their clients.

ARTICLE 9

The senior managers of authorised companies, in the conduct of their business, shall preserve their decision-taking independence in order to ensure that their clients' interests prevail at all times.

§ II: Provisions specific to the conduct of certain activities

ARTICLE 10

Without prejudice to the provisions of Articles 7 to 9, companies authorised to engage in the activities referred to at Article 1(1) to (3) and (5) to (7) of Act 1.338 of 7 September 2007 must secure the best possible execution of orders.

In particular, they must ensure that the total time for carrying out orders is as short as possible, from initial registration to the execution and accounting treatment of transactions.

ARTICLE 11

The companies referred to in the preceding article must introduce a suitable internal organisation, such that the origin and transmission of orders can be tracked in detail and transactions identified individually.

For each order, they must be able to furnish proof of the date of receipt and the date of transmission.

They are required to introduce a procedure for registering orders chronologically which applies from receipt of the order issued either by the customer or by the person qualified to transmit it.

In addition to the date on which the order is received and its nature, the procedure must be such as to permit registration of the date on which the order is transmitted for execution to duly authorised intermediaries.

Any authorised company mandated to transmit orders with a view to their execution on financial markets by an intermediary authorised to take part in trading must also be able to furnish proof that each order has been given by the client.

ARTICLE 12

Authorised companies must inform their clients of the conditions for transmitting orders referred to in the preceding paragraph before implementing them.

ARTICLE 13

Companies authorised to engage in the activity referred to at Article 1(1) of Act 1.338 of 7 September 2007 must also:

- 1) make enquiries about their clients' financial situation, investment experience and objectives with regard to the requested services;
- 2) inform their clients of the risks inherent in the type of transactions they envisage;
- 3) provide relevant information in an appropriate manner in the context of negotiations with their clients.

ARTICLE 14

Companies referred to in the preceding article that manage portfolios and transmit orders for the same client must ask for separate accounts to be opened on the books of their custody account-keeper.

ARTICLE 15

Companies authorised to engage in the activities referred to at Article 1(2) and (6) of Act 1.338 of 7 September 2007 must exercise the rights attached to the UCITS they manage in the sole interest of the shareholders and unitholders of such undertakings and report on their practices in regard to the exercise of voting rights.

Section VI – Mandates given by clients

ARTICLE 16

The written agreements referred to in the first paragraph of Article 26 of Act 1.338 of 7 September 2007 shall set out the service provider's obligations with regard to the client.

The agreements shall be drawn up in duplicate and signed by the client and the company. One copy shall be provided to the client.

ARTICLE 17

Before the client signs the agreement referred to in the preceding article, the company must make enquiries about the client's objectives, investment experience and financial situation. The proposed services must be adapted to the client's financial situation.

The authorised company shall provide the client with all relevant information.

ARTICLE 18

The mandate shall include at least the following information:

- 1) the management objectives;
- 2) the classes of financial instrument that the portfolio may contain;
- 3) procedures for informing clients about the management of their portfolios;
- 4) the method for compensating the company;
- 5) the term of the mandate and the conditions for renewing or terminating it.

Where the mandate allows leveraged transactions, the client's express consent must be given in a special agreement that indicates the conditions under which such transactions are to be carried out and how the client is to be informed of them.

The mandate must state the risks inherent in certain transactions.

ARTICLE 19

The company may delegate some of the portfolio management activities in which it engages on the client's behalf provided that it has obtained the client's prior express consent to the purpose and terms of the delegation.

ARTICLE 20.

The company may not place the UCITS it manages in the client's portfolio without obtaining the client's prior express consent.

ARTICLE 21

Either party may terminate the mandate at any time by registered letter with acknowledgment of receipt sent to the other party.

The party taking the initiative shall simultaneously notify the custody account-keeper of termination of the mandate.

Termination on the client's initiative shall take effect when the registered letter is received by the company, which shall no longer be authorised to initiate any further transactions. However, the company must close out pending transactions on futures or options markets unless the client expressly stops them by registered letter with acknowledgment of receipt.

The company may not terminate the mandate before closing out transactions initiated on futures and options markets except with the client's express consent. The mandate shall terminate five days after the client receives the registered letter unless the client consents in writing to a shorter period.

On the effective termination date at the latest, the company shall draw up a portfolio statement and produce a management report showing the results of its management since the previous portfolio statement; it shall give the client all relevant clarifications concerning the nature of open positions.

Section VII – Annual report

ARTICLE 22

Authorised companies shall draw up the annual report referred to at Article 30 of Act 1.338 of 7 September 2007 at the end of each financial year. The report shall be certified by the company's senior manager.

It shall include:

1) details of any change that has taken place during the elapsed year relating to:

a) the respective share of each activity carried on;

b) the company's technical or human resources;

c) management delegations or sub-delegations;

d) senior managers;

e) the shareholder structure;

2) a description and assessment of procedures implemented in compliance with the prudential rules and rules of conduct set forth in Sections IV and V;

3) a detailed analysis of the company's results and the factors explaining them. Companies that have their headquarters in another country should provide information only about the activities of their branches in the Principality.

The report must be certified as fair and true by the statutory auditors referred to at Article 31 of the above-mentioned Act, who must also analyse and assess the arrangements made by the company to comply with the prudential rules and rules of good conduct.

Section VIII – Financial Activities Supervisory Commission

ARTICLE 23

In performing their duties, the members of the Financial Activities Supervisory Commission provided for at Article 10 of Act 1.338 of 7 September 2007 shall not receive any instruction from any authority.

A member of the judiciary appointed by the Director of Judicial Services shall attend the Commission's meetings in an advisory capacity.

One or more representatives of the Budget and Treasury Directorate shall provide the secretariat.

ARTICLE 24

Meetings of the Financial Activities Supervisory Commission shall be called by the Chairman, who shall set the date. The notice of meeting shall state the agenda and shall be sent at least ten days before the date of meeting. Decisions shall be taken by a majority of members present or represented and shall be recorded in minutes signed by the Chairman and the secretary of the meeting. In the event of a tie, the Chairman shall have the casting vote.

ARTICLE 25.

If the Chairman is absent or indisposed, he shall be replaced by the Vice-Chairman, who shall have a casting vote in the event of a tie.

A member of the Commission who is absent or indisposed may give a written power of attorney to another member to represent him and take part in the Commission's decisions.

ARTICLE 26

The Commission shall draw up its rules of procedure.

ARTICLE 27.

The Commission shall draw up an annual report on application of the law and its implementing texts.

The report shall be sent to the Minister of State and made available for public consultation in the Commission's offices.

ARTICLE 28

The following may not voice an opinion within the Commission:

- 1) the President of the Order of Chartered Accountants, if he is auditor or accountant of a company or mutual fund subject to the Commission's oversight;
- 2) any member of the commission who is a shareholder or director or employee of a company subject to the commission's oversight.

ARTICLE 29

Sovereign Order 13.184 of 16 September 1997 implementing Act 1.194 of 9 July 1997 as amended and all provisions contrary to this Order are repealed.

In all regulatory texts, references to the provisions of Sovereign Order 13.184 of 16 September 1997 shall be replaced, where appropriate, by references to this Order.

ARTICLE 30

Our Secretary of State, Director of Judicial Services and Minister of State, each in those matters that concern them, shall be responsible for executing this Order.

Done in Our Palace at Monaco on the tenth of September two thousand and seven.

ALBERT

By the Prince,
The Secretary of State:
R. NOVELLA
R. NOVELLA.