

# **EXPLANATORY MEMORANDUM TO THE HOUSE OF LORDS SELECT COMMITTEE ON THE MERITS OF STATUTORY INSTRUMENTS**

## **OPEN-ENDED INVESTMENT COMPANIES REGULATIONS (NORTHERN IRELAND) 2004 No. 335**

1.1 This explanatory memorandum has been prepared by the Department of Enterprise, Trade and Investment and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the House of Lords Select Committee on the Merits of Statutory Instruments.

### **2. Description**

2.1 The Regulations set out the legal framework for the establishment and regulation of those open-ended investment companies (OEICs) which have a head office situated in Northern Ireland.

2.2 The Regulations are made under powers conferred on the Department of Enterprise, Trade and Investment by section 1 of the Open-Ended Investment Companies (Northern Ireland) Act 2002 (2002 c.13 (N.I.))("the Act").

### **3. Matters of special interest to the Select Committee**

3.1 None

### **4. Legislative background**

4.1 The Act replicates the provisions contained in sections 262 and 263 of the Financial Services and Markets Act 2000 (c.8), which covers England, Scotland and Wales. This legislation creates a corporate structure and regulatory environment for OEICs that invest otherwise than in transferable securities, that is equities and bonds. This new form of OEIC is known as a non-UCITS (Undertakings for Collective Investment in Transferable Securities) OEIC.

4.2 The statutory rule is the first to be made under the powers conferred by section 1 of the Act. During the current period of suspension of the Northern Ireland Assembly this statutory rule is required to be laid before Parliament under the negative resolution procedure (see paragraph 7(3) of the Schedule to the Northern Ireland Act 2000 (c.1)).

### **5. Extent**

- 5.1 These Regulations apply to Northern Ireland only. The corresponding Great Britain Regulations are the Open-Ended Investment Companies Regulations 2001, S.I. 2001/1228.

## **6. European Convention on Human Rights**

- 6.1 Barry Gardiner, MP, Minister for Enterprise, Trade and Investment has made the following statement under section 19(1)(a) of the Human Rights Act 1998 (c.42): "In my view, the provisions of the Open-Ended Investment Companies Regulations (Northern Ireland) 2004 are compatible with the Convention rights".

## **7. Policy Background**

- 7.1 The Regulations are being made to ensure consistency with the practices in relation to OEICS in Great Britain and to ensure that responsibility for the registration and regulation of OEICS rests with the same body, the Financial Services Authority. The Authority will make rules for this purpose under regulation 6 of the Regulations.
- 7.2 A consultation process was carried out from November 2001 until February 2002. Respondents did not identify any negative impacts arising from the proposed legislation.

## **8. Impact**

- 8.1 A Regulatory Impact Assessment has not been prepared for these Regulations as they have no impact on business, charities or voluntary bodies.

## **Contact**

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**August 2004**