

2005 No. 1466

CARIBBEAN AND NORTH ATLANTIC TERRITORIES

**The Montserrat Reporting of Savings Income Information Order
2005**

Made - - - - - *7th June 2005*

Laid before Parliament *20th June 2005*

Coming into force in accordance with article 1(2)

At the Court at Buckingham Palace, the 7th day of June 2005

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by sections 5 and 7 of the West Indies Act 1962(a), and of all other relevant enabling powers, is pleased, by and with the advice of Her Privy Council, to order as follows:

PART 1

Introductory Provisions

Citation and commencement

1.—(1) This Order may be cited as the Montserrat Reporting of Savings Income Information Order 2005.

(2) This Order shall come into force on such day, being not earlier than 1st July 2005, as may be notified by the Governor in the Montserrat Gazette.

Extent of the Order

2. This Order extends to Montserrat.

(a) 1962 c.19. There is an amendment which is not relevant for present purposes.

Interpretation

3.—(1) In this Order—

“the European Savings Directive” means Council Directive 2003/48/EC of 3rd June 2003 on taxation of savings income in the form of interest payments^(a);

“the European Securities Directive” means Directive 2001/34/EC of 28th May 2001 on the admission of securities to official stock exchange listing and on information to be published on those securities as amended^(b);

“the European UCITS Directive” means Council Directive 85/611/EEC of 20th December 1985 on the co-ordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities as amended^(c).

(2) In this Order—

“agent” means paying agent or receiving agent as appropriate;

“Governor” means the person for the time being lawfully administering the government of Montserrat;

“money debt” is a debt arising from a transaction for the lending of money and which falls to be, or may be, settled—

(a) by the payment of money; or

(b) by the transfer of a right to settlement under a debt which is itself a money debt, subject to the qualification in article 17;

“paying agent” has the meaning given in article 4;

“receiving agent” has the meaning given in article 6;

“relevant payee” has the meaning given in article 7;

“resident” and “residence” shall be construed in accordance with article 9;

“residual entity” has the meaning given in article 5;

“savings income” has the meaning given in article 8;

“UCITS” means an undertaking for collective investment in transferable securities within the European UCITS Directive.

(3) For the purposes of this Order a person makes savings income payments to another person if the person—

(a) makes payments of savings income to another person, or

(b) secures the payment of savings income for the other person.

(4) In this Order “economic operator” shall be construed in accordance with Article 4 of the European Savings Directive.

(5) In this Order a reference (without more) to an article is a reference to the article of this Order bearing that number.

Meaning of paying agent

4. A paying agent is a person who—

(a) is established in Montserrat;

(a) OJ No. L157, 26.06.2003, p.38, amended by Decision 2004/587/EC of the Council (OJ No. L 257, 4.8.2004, p. 7) and Directive 2004/66/EC of the Council (OJ No. L188, 1.5.2004, p. 35).

(b) OJ No. L184, 06.07.2001, p.1, amended by Directive 2003/6/EC of the European Parliament and of the Council (OJ No. L96, 12.04.2003, p.16).

(c) OJ No. L375, 31.12.1985, p.3, amended by Council Directive 88/220/EEC (OJ No. L100, 19.04.1988, p.31), European Parliament and Council Directive 95/26/EC (OJ No. L168, 18.07.1995, p.7), European Parliament and Council Directive 2000/64/EC (OJ No. L290, 17.11.2000, p.27), European Parliament and Council Directive 2001/107/EC (OJ No. L41, 13.02.2002, p.20), European Parliament and Council Directive 2001/108/EC (OJ No. L41, 13.02.2002, p.35).

- (b) makes savings income payments in the course of his business or profession; and
- (c) makes those payments—
 - (i) for the immediate benefit of a relevant payee; or
 - (ii) to a residual entity established in a member State.

Here a “person” includes any officer in any public office or in any government department and any savings income payments made by such a person will be treated as if the payment were made in the course of that person’s business or profession.

Meaning of residual entity

5.—(1) Subject to paragraph (2), a residual entity is an entity established in a member State or in Montserrat other than an entity—

- (a) which is a legal person;
- (b) the profits of which are taxed under the general arrangements for business taxation; or
- (c) which is a UCITS authorised in accordance with the European UCITS Directive; or
- (d) which is an undertaking for collective investments established in Montserrat and which is equivalent to a UCITS authorised in accordance with the European UCITS Directive.

(2) In paragraph (1)(a) a legal person excludes—

- (a) in Finland, avoin yhtiö (Ay) and kommandiittiyhtiö (Ky)/ öppet bolag and kommanditbolag; and
- (b) in Sweden, handelsbolag (HB) and kommanditbolag (KB).

(3) A paying agent shall regard an entity as a residual entity unless the paying agent has reason to believe, on the basis of official evidence produced by the entity to the paying agent, that any sub-paragraph of paragraph (1) applies.

(4) An entity which presents to the paying agent or economic operator a certificate issued by the relevant territory in which that entity is established to the effect that it is to be treated as if it were a UCITS authorised in accordance with the European UCITS Directive shall be treated as such for the purposes of this article.

Here “relevant territory” means, as the case requires, a member State or Montserrat.

Meaning of receiving agent

6. A receiving agent is an entity—

- (a) which is a residual entity;
- (b) which is established in Montserrat; and
- (c) to which a savings income payment is made for the benefit of a relevant payee by a person established in a member State in the course of his business or profession.

Meaning of relevant payee

7.—(1) The agent shall regard a person as a relevant payee if he is an individual—

- (a) resident in a member State; and
- (b) who has received a savings income payment or for whom a savings income payment has been secured,

unless he provides evidence to the agent that the payment is not received or secured for his own benefit because of one of the reasons listed in paragraph (2).

(2) The reasons referred to in paragraph (1) are that the individual—

- (a) is acting as a paying agent or an economic operator;
- (b) acts on behalf of a residual entity;

- (c) acts on behalf of an entity—
 - (i) which is a legal person;
 - (ii) the profits of which are taxed under the general arrangements for business taxation;
 - (iii) which is a UCITS authorised in accordance with the European UCITS Directive;
 - (iv) which is an undertaking for collective investments established in Montserrat which is equivalent to a UCITS authorised in accordance with the European UCITS Directive;
 - (v) which is treated as being an authorised UCITS in accordance with the European UCITS Directive for the purposes of the European Savings Directive by virtue of Article 5(4) of this Order; or
 - (vi) which is a residual entity resident in Montserrat which is treated by the Inland Revenue Department as being equivalent to a UCITS authorised in accordance with the European UCITS Directive;
- (d) acts on behalf of another individual for whose benefit the payment is received or secured.

(3) An individual who provides evidence that he is acting on behalf of a residual entity must in addition provide the name and address of that residual entity to the agent.

(4) An individual who provides evidence that he acts on behalf of another individual must in addition provide the agent with the name and address, and where appropriate the tax identification number or date and place of birth, of that individual. The individual providing the evidence must obtain and verify this information in accordance with article 9.

(5) If the agent has information, which suggests that the individual who receives a savings income payment or for whom a savings income payment is secured may not be the relevant payee for the reason referred to in paragraph (2)(d), then paragraph (6) applies.

(6) The agent must take reasonable steps to establish who is the relevant payee and if the agent is unable to identify the relevant payee, he shall treat the individual who receives a savings income payment or for whom a savings income payment is secured as the relevant payee.

Meaning of savings income

8.—(1) Subject to paragraphs (3) to (6) and (8) savings income is—

- (a) interest;
- (b) interest accrued or capitalised at the sale, refund or redemption of a money debt;
- (c) income distributed by a collective investment fund which is derived directly or indirectly, via other collective investment funds or residual entities, from interest;
- (d) income realised upon the sale, refund or redemption of shares or units in a collective investment fund if that fund invests directly or indirectly, via other collective investment funds or residual entities, more than 40% of its assets in money debts.

(2) In paragraph (1) “interest”—

- (a) includes—
 - (i) prizes attaching to money debts; and
 - (ii) premiums and discounts derived from money debts; and
- (b) excludes—
 - (i) any interest which is not related to a money debt; and
 - (ii) penalty charges for late payment.

(3) In respect of savings income described in paragraph (1)(b), where an agent has no information concerning the amount of interest which is accrued or capitalised at the sale, refund or redemption of a money debt, the total amount of the proceeds of the sale, redemption or refund is savings income.

(4) In respect of savings income described in paragraphs (1)(c), where an agent has no information concerning the proportion of income which derives from interest the total amount of the income is savings income.

(5) In respect of savings income described in paragraphs (1)(c) and (d), subject to paragraph (9)—

- (a) where a collective investment fund established in Montserrat has invested 15% or less of its assets directly or indirectly, via other collective investment funds or residual entities, in money debts there is no savings income;
- (b) where a collective investment fund—
 - (i) is established in a member State which has derogated from paragraphs (1)(c) and (d) of Article 6 of the European Savings Directive in accordance with Article 6(6) of that European Community Directive; and
 - (ii) the collective investment fund has invested 15% or less of its assets in money debts in accordance with the law of that member State in the application of that derogation, there is no savings income.

(6) In respect of savings income described in paragraph (1)(d)—

- (a) where an agent has no information concerning the percentage of assets invested in money debts or in shares or units in collective investment funds, that percentage shall be considered to be more than 40%;
- (b) where the agent cannot determine the amount of income realised by the relevant payee, the income shall be deemed to correspond to the proceeds of the sale, refund or redemption of the shares or units.

(7) From 1st January 2011 paragraphs (1)(d) and (6)(a) shall have the effect with the substitution of “25%” for “40%”.

(8) Subject to paragraph (9)—

- (a) where a residual entity established in Montserrat invests 15% or less of its assets directly or indirectly, via collective investment funds or other residual entities, in money debts there is no savings income;
- (b) where a residual entity—
 - (i) is established in a member State which has derogated from paragraphs (1)(c) and (d) of Article 6 of the European Savings Directive in accordance with Article 6(6) of that Directive; and
 - (ii) the residual entity has invested 15% or less of its assets in money debts in accordance with the law of that member State in the application of that derogation, there is no savings income.

(9) In the application of paragraphs (5) and (8), where the agent cannot ascertain whether or not the collective investment fund or residual entity, as appropriate, has invested 15% or less of its assets in money debts in accordance with those provisions, there is savings income.

(10) The percentages referred to in this article shall be determined by reference to the investment policy as laid down in the fund rules or instruments of incorporation of the collective investment fund or residual entity concerned and, failing which, by reference to the actual composition of the assets of the collective investment fund or residual entity.

(11) In this article a “collective investment fund” is—

- (a) a UCITS authorised in accordance with the European UCITS Directive;
- (b) an entity which is treated as being a UCITS authorised in accordance with the European UCITS Directive for the purposes of the European Savings Directive by virtue of article 5(4) of this Order;
- (c) a residual entity established in Montserrat which is treated by the Inland Revenue Department as being equivalent to a UCITS authorised in accordance with the European UCITS Directive; or

- (d) an undertaking for collective investment established otherwise than in a member State or Montserrat.

This is subject to the following qualification.

If a collective investment fund provides arrangements for separate pooling of the contributions of the participants and the profits or income out of which payments are to be made to them and under which participants are entitled to exchange rights in one pool for rights in another, each separate pool shall be treated as a separate collective investment fund.

PART 2

Information to be obtained, verified and reported

Identity and residence of relevant payees

9.—(1) Where—

- (a) a paying agent makes a savings income payment to an individual whom he believes to be a relevant payee, or
- (b) a receiving agent receives or secures a savings income payment for an individual whom he believes to be a relevant payee,

the agent must establish the identity and country of residence of that individual in accordance with this article.

(2) Subject to the conditions set out in this article, for the purposes of this article the country of residence means the country where the individual has his permanent address.

(3) Where contractual relations between the agent and the individual are entered into before 1st January 2004 the agent must verify the name, address and country of residence of the individual by using the information at its disposal, including information obtained pursuant to any law for the time being in force in Montserrat relating to money laundering.

(4) Where contractual relations between the agent and the individual are entered into, or transactions are carried out in the absence of contractual relations, on or after 1st January 2004, the agent shall obtain and verify—

- (a) the name, address and the tax identification number allocated by the member State of residence for tax purposes or, if it is not available, the date and place of birth of the individual in accordance with paragraphs (5) to (7); and
- (b) the country of residence of the individual in accordance with paragraphs (8) and (9).

(5) The information in paragraph (4)(a) shall be verified by the presentation by the individual of his passport or official identity card to the agent.

(6) If the address does not appear on that passport or official identity card, it shall be verified by the presentation by the individual of any other documentary proof of identity to the agent.

(7) If the tax identification number is not mentioned on the passport, official identity card or any other documentary proof of identity presented by the individual, the agent shall instead verify the individual's date and place of birth on the basis of his passport or official identity card.

(8) Subject to paragraph (9), the country of residence of the individual shall be determined on the basis of his address verified in accordance with paragraphs (5) and (6).

(9) Where the individual declares his country of residence to be in a country other than a member State—

- (a) if he presents a passport or official identity card issued by a member State, the agent shall establish the country of residence by means of a certificate of residence for tax purposes issued by the competent authority of the other country which the individual claims to be his country of residence;

- (b) if the individual fails to present such a certificate, the member State that issued the passport or other official identity document shall be considered to be the country of residence.

(10) The individual may present a certified copy of any of the documents referred to in this article.

Here “certified copy” means a copy certified or otherwise authenticated in such manner as would make it admissible in evidence in proceedings before a court.

(11) In this article—

“competent authority” means the competent authority for the purposes of bilateral or multilateral tax conventions or, failing that, such other authority as is competent to issue certificates of residence for tax purposes;

“other documentary proof of identity” includes certificates of residence for tax purposes.

Information to be reported to the Inland Revenue Department by paying agents making payments to relevant payees

10.—(1) When a paying agent makes a savings income payment for the immediate benefit of a relevant payee the information prescribed by paragraph (2) must be reported by the paying agent to the Inland Revenue Department in accordance with article 14.

(2) The information prescribed is—

- (a) the name and address of the paying agent;
- (b) the name, address and country of residence of the relevant payee established in accordance with article 9;
- (c) where contractual relations between the relevant payee and the paying agent were entered into, or transactions are carried out in the absence of contractual relations, on or after 1st January 2004, the tax identification number, or if it is not available, the relevant payee’s date and place of birth, established in accordance with article 9;
- (d) the account number of the relevant payee or, where there is none, identification of the money debt or other instrument giving rise to the savings income;
- (e) the amount and category of the savings income payments made to the relevant payee in accordance with article 13 and the currency in which they were paid.

Information to be reported to the Inland Revenue Department by paying agents making payments to residual entities

11.—(1) When a paying agent makes a savings income payment to a residual entity established in a member State the information prescribed by paragraph (2) must be reported by the paying agent to the Inland Revenue Department in accordance with article 14.

(2) The information prescribed is—

- (a) the name and address of the paying agent;
- (b) the name and address of the residual entity (including the territory in which it is established); and
- (c) the total amount and category of the savings income payments made to the residual entity in accordance with article 13 and the currency in which they were paid.

Information to be reported to the Inland Revenue Department by receiving agents

12.—(1) When a receiving agent receives or secures savings income the information prescribed by paragraph (2), in respect of each relevant payee the savings income is attributable to, must be reported by the receiving agent to the Inland Revenue Department in accordance with article 14.

(2) The information prescribed is—

- (a) a statement that the savings income has been received or secured by the receiving agent in his capacity as such;
- (b) the name and address of the receiving agent;
- (c) the name, address and country of residence of the relevant payee established in accordance with article 9;
- (d) where contractual relations between the relevant payee and the receiving agent were entered into, or transactions are carried out in the absence of contractual relations, on or after 1st January 2004, the tax identification number, or if it is not available, the relevant payee's date and place of birth, established in accordance with article 9;
- (e) the account number of the relevant payee or, where there is none, identification of the money debt or other instrument giving rise to the savings income;
- (f) the amount and category of the savings income received or secured by the receiving agent in accordance with article 13 and the currency in which it was paid.

Amount of savings income to be reported to the Inland Revenue Department

13.—(1) The information concerning the savings income prescribed by paragraph (2) must be reported by the agent to the Inland Revenue Department.

(2) The agent shall identify under which of the following three categories he is reporting the savings income and where the savings income is of the type prescribed by—

- (a) article 8(1)(a), report the amount of savings income;
- (b) sub-paragraph (b) or (d) of article 8(1), report either the amount of savings income or the full amount of the proceeds from the sale, redemption or refund;
- (c) article 8(1)(c), report either the amount of savings income or the full amount of the distribution.

(3) Where the agent has reported savings income under sub-paragraph (a) or (c) of paragraph (2) no further report of the same savings income is required under sub-paragraph (b) of that paragraph.

PART 3

Reporting the information and penalties

Reports by paying and receiving agents to the Inland Revenue Department

14.—(1) A paying agent or receiving agent who is required to report information to the Inland Revenue Department in accordance with this Order must make and deliver the report to the Department within 14 days of the end of the tax year in which—

- (a) in the case of a paying agent, the savings income payment was made, or
- (b) in the case of a receiving agent, the savings income was secured or received

unless he has received a notice from the Department under paragraph (4) to provide a return in respect of that year.

(2) The agent must make a separate report in respect of each relevant payee.

(3) The report must include all the information prescribed by this Order in respect of—

- (a) in the case of a paying agent, all savings income payments made, and
- (b) in the case of a receiving agent, all savings income secured or received,

during that tax year and specify the tax year to which the report relates.

(4) The Inland Revenue Department shall send a notice under paragraph (5) to—

- (a) any person who has made a report specified in paragraph (1);

- (b) any agent whom the Department considers should have made such a report in respect of the immediately preceding tax year; and
 - (c) any agent who has made such a report in respect of the immediately preceding tax year, unless—
 - (i) the agent has notified the Department that he is no longer an agent; or
 - (ii) the Department has reason to believe that he is no longer an agent.
- (5) A notice under this paragraph shall specify—
- (a) the information which must be reported;
 - (b) the tax year in respect of which the report must be made; and
 - (c) when, where and how the information to be reported is to be delivered.

The time at which information is required to be delivered shall be not earlier than 30 days after the delivery of the notice.

(6) In the application of this article to the tax year beginning on 1st January 2005, any savings income paid or received before 1st July 2005 shall be disregarded.

Offences by paying and receiving agents

15. A paying agent or receiving agent who fails to comply with a requirement imposed under article 14 shall be guilty of an offence and liable upon summary conviction to a fine not exceeding \$6,000.

PART 4

Audit

Audit and related issues

16.—(1) An officer of the Inland Revenue Department may by notice require an agent, or a person who appears to him to be an agent, to furnish him within such time, not being less than 14 days, as may be provided by the notice, such information (including copies of any relevant books, documents or other records) as he may reasonably require for the purposes of determining whether information contained in a report under this Order by that agent or person, as appropriate, was correct and complete.

(2) An agent or person, as appropriate, required to make and deliver a report under this Order shall, whenever required to do so within the period specified in paragraph (4)(c), make available for inspection by an officer of the Inland Revenue Department, at such time as that officer may reasonably require, all such copies of books, documents or other records in his possession or under his control as may be required by an officer of that Department under paragraph (1).

(3) An agent or person, as appropriate, required to make and deliver a report under this Order shall retain, for the period specified in paragraph (4), all such books, documents and other records copies of which he may be required to make available for inspection under paragraph (2).

The documents to be retained under this paragraph include copies of the documents presented by relevant payees in accordance with article 9.

- (4) The period specified is—
- (a) in relation to information concerning the identity and country of residence of a relevant payee the period of two years beginning immediately after the end of the tax year in which transactions between the relevant payee and paying agent cease;
 - (b) in relation to the official evidence referred to in article 5(3) the period of two years beginning immediately after the end of the tax year in which transactions between the entity and paying agent cease; and

- (c) in relation to information concerning savings income the period of two years beginning immediately after the end of the tax year in which the paying agent makes a savings income payment or the receiving agent receives or secures savings income, as appropriate.

Offences

17.—(1) A paying agent or receiving agent who fails to comply with a requirement imposed under or paragraph (1) or (2) of article 16 shall be guilty of an offence and liable upon summary conviction to a fine not exceeding \$8,000.

(2) A paying agent or receiving agent who fails to take all reasonable steps—

(a) to establish the identity and residence of a relevant payee, or

(b) to verify the name, address and residence of a relevant payee as required by article 9,

shall be guilty of an offence and liable upon summary conviction to a fine not exceeding \$3,000.

PART 5

Transitional provisions

Transitional provisions – negotiable debt securities

18.—(1) Until 31st December 2010 negotiable debt securities to which paragraph (2) applies shall not be considered to be money debts.

(2) This paragraph applies to negotiable debt securities—

(a) which were first issued before 1st March 2001; or

(b) for which the original prospectus was approved before that date by—

(i) the competent authority within the meaning of the European Securities Directive; or

(ii) the responsible authorities in countries other than member States,

provided that no further issues of such negotiable debt securities are made on or after 1st March 2002.

(3) Where a further issue is made on or after 1st March 2002 of negotiable debt securities described in paragraphs (2)(a) and (b) issued by a Government or a related entity acting as a public authority or whose role is recognised by an international treaty, as defined in the Schedule, the entire issue of such security, consisting of the original issue and any further issue, shall be considered a money debt.

(4) If a further issue is made on or after 1st March 2002 of a negotiable debt security described in paragraphs (2)(a) and (b) issued by a person not referred to in paragraph (3), such further issue shall be considered a money debt.

(5) Where an agent cannot ascertain whether paragraphs (2) to (4) apply the entire issue of the negotiable debt security shall be considered a money debt.

(6) A negotiable debt security is a security that can be transferred from one creditor to another without the approval of the debtor.

PART 6

Interaction with other law in Montserrat

Relationship with other law in Montserrat

19.—(1) The provisions of this Order shall have effect notwithstanding any other law in force in Montserrat, including, in particular, the Banking Act and the Confidential Information Act.

(2) It is a defence for a person charged with an offence in respect of the disclosure of information under—

- (a) section 31 of the Banking Act(a),
- (b) section 5 of the Confidential Information Act(b), or
- (c) any other enactment or rule of law for the time being in force in Montserrat,

to show that the disclosure was authorised or required by virtue of any provision of this Order.

(3) In this article a reference to any provision of the law of Montserrat includes a reference to a re-enactment of that provision.

(4) A disclosure to which paragraph (2) applies does not constitute a breach of any duty of confidentiality owed by the person making the disclosure to any other person.

(5) No civil claim or action of any kind shall lie, in respect of a disclosure to which paragraph (2) applies, against—

- (a) the person making that disclosure, or
- (b) that person's principal or employer,

by reason only of that disclosure.

A K Galloway
Clerk of the Privy Council

SCHEDULE

Article 18(3)

Negotiable debt securities: entities referred to in article 18(3)

For the purposes of article 18(3), an entity is “a related entity acting as a public authority or whose role is recognised by an international treaty” if it is listed in Table 1 or Table 2 below or it is situated in a country other than a member State and meets the following criteria—

- (a) the entity is clearly considered to be a public entity according to the national criteria;
- (b) such public entity is a non-market producer which administers and finances a group of activities, principally providing non-market goods and services, intended for the benefit of the community and which are effectively controlled by general government;
- (c) such public entity is a large and regular issuer of debt; and
- (d) the State concerned is able to guarantee that such public entity will not exercise early redemption in the event of gross-up clauses.

(a) *i.e.* the law contained in the Revised Edition of the Laws of Montserrat in Chapter 11.03.
(b) *i.e.* the law contained in the Revised Edition of the Laws of Montserrat in Chapter 11.25.

Table 1**Entities within the European Union**

<i>Member State</i>	<i>Entity</i>
Belgium	Vlaams Gewest (Flemish Region) Région wallonne (Walloon Region) Région bruxelloise/Brussels Gewest (Brussels Region) Communauté française (French Community) Vlaamse Gemeenschap (Flemish Community) Deutschsprachige Gemeinschaft (German-speaking Community)
France	La Caisse d'amortissement de la dette sociale (CADES) (Social Debt Redemption Fund) L'Agence française de développement (AFD) (French Development Agency) Réseau Ferré de France (RFF) (French Rail Network) Caisse Nationale des Autoroutes (CNA) (National Motorways Fund) Assistance publique Hôpitaux de Paris (APHP) (Paris Hospitals Public Assistance) Charbonnages de France (CDF) (French Coal Board) Entreprise minière et chimique (EMC) (Mining and Chemicals Company)
Greece	Οργανισμός Τηλεπικοινωνιών Ελλάδος (National Telecommunications Organisation) Οργανισμός Σιδηροδρόμων Ελλάδος (National Railways Organisation) Δημόσια Επιχείρηση Ηλεκτρισμού (Public Electricity Company)
Italy	Regions Provinces Municipalities Cassa Depositi e Prestiti (Deposits and Loans Fund)
Latvia	Pašvaldības (Local governments)

<i>Member State</i>	<i>Entity</i>
Poland	<p>gminy (communes) powiaty (districts) województwa (provinces) związki gmin (associations of communes) związki powiatów (association of districts) związki województw (association of provinces) miasto stołeczne Warszawa (capital city of Warsaw) Agencja Restrukturyzacji i Modernizacji Rolnictwa (Agency for Restructuring and Modernisation of Agriculture) Agencja Nieruchomości Rolnych (Agricultural Property Agency)</p>
Portugal	<p>Região Autónoma de Madeira (Autonomous Region of Madeira) Região Autónoma dos Açores (Autonomous Region of Azores) Municipalities</p>
Slovakia	<p>mestá a obce (municipalities) Železnice Slovenskej republiky (Slovak Railway Company) Štátny fond cestného hospodárstva (State Road Management Fund) Slovenské elektrárne (Slovak Power Plants) Vodohospodárska výstavba (Water Economy Building Company)</p>
Spain	<p>Xunta de Galicia (Regional Executive of Galicia) Junta de Andalucía (Regional Executive of Andalusia) Junta de Extremadura (Regional Executive of Extremadura) Junta de Castilla-La Mancha (Regional Executive of Castilla-La Mancha) Junta de Castilla-León (Regional Executive of Castilla-León) Gobierno Foral de Navarra (Regional Government of Navarre) Govern de les Illes Balears (Government of the Balearic Islands) Generalitat de Catalunya (Autonomous Government of Catalonia) Generalitat de Valencia (Autonomous Government of Valencia) Diputación General de Aragón (Regional Council of Aragon) Gobierno de las Islas Canarias (Government of the Canary Islands) Gobierno de Murcia (Government of Murcia) Gobierno de Madrid (Government of Madrid)</p>

<i>Member State</i>	<i>Entity</i>
Spain (continued)	Gobierno de la Comunidad Autónoma del País Vasco/Euzkadi (Government of the Autonomous Community of the Basque Country) Diputación Foral de Guipúzcoa (Regional Council of Guipúzcoa) Diputación Foral de Vizcaya/Bizkaia (Regional Council of Vizcaya) Diputación Foral de Alava (Regional Council of Alava) Ayuntamiento de Madrid (City Council of Madrid) Ayuntamiento de Barcelona (City Council of Barcelona) Cabildo Insular de Gran Canaria (Island Council of Gran Canaria) Cabildo Insular de Tenerife (Island Council of Tenerife) Instituto de Crédito Oficial (Public Credit Institution) Instituto Catalán de Finanzas (Finance Institution of Catalonia) Instituto Valenciano de Finanzas (Finance Institution of Valencia)

Table 2

International entities

European Bank for Reconstruction and Development
European Investment Bank
Asian Development Bank
African Development Bank
World Bank/IBRD/IMF
International Finance Corporation
Inter-American Development Bank
Council of Europe Social Development Fund
Euratom
European Community
Corporación Andina de Fomento (CAF) (Andean Development Corporation)
Eurofima
European Coal and Steel Community
Nordic Investment Bank
Caribbean Development Bank

Note: The provisions of article 18 are without prejudice to any international obligations that member States may have entered into with respect to the international entities listed in Table 2.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order in Council ensures that arrangements are in place in Montserrat as envisaged by Article 17(2)(ii) of Council Directive 2003/48/EC of 3rd June 2003 on taxation of savings income in the form of interest payments (“the European Savings Directive”) as amended by the Council Decision 2004/587/EC of 19 July 2004 concerning the date of application of the European Savings Directive.

The Order requires information to be reported to the Inland Revenue Department in Montserrat (“the Department”) about savings income paid to, or secured for, an individual resident in a member State of the European Community in the course of a business or profession. The same is required in respect of some entities resident in member States of the European Community.

Part 1 of this Order makes provision about —

- (a) who is required to make a report; “paying agents” and “receiving agents”;
- (b) persons in respect of whom a report needs to be made; “relevant payees” and “residual entities”; and
- (c) what is meant by “savings income”.

Part 2 of this Order makes provision for —

- (a) obtaining and verifying information about the individual who receives the savings income or for whose benefit it is received or secured; and
- (b) the information which needs to be reported to the Department.

Part 3 of this Order makes provision for—

- (a) reports to be made to the Department and the time within which reports must be made, and
- (b) penalties for failing to report.

Part 4 of this Order makes provision for audits and issues related to audits.

Part 5 of this Order (read with the Schedule) contains transitional provisions in respect of negotiable debt securities.

Part 6 of this Order deals with the interaction of the provisions of the Order and other law in Montserrat where the two conflict. It also makes provision about the civil and criminal liability in respect of disclosures which are required or authorised by the Order.

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CARIBBEAN AND NORTH ATLANTIC TERRITORIES

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2005**

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