

**INVESTMENT SERVICES ACT**  
**(CAP. 370)**

**Investment Services Act (Limited Partnership Funds) Regulations, 202X**

IN EXERCISE of the powers conferred by Article 12(1)(X) of the Investment Services Act, the Minister responsible for the regulation of financial services, acting on the advice of the Malta Financial Services Authority, has made the following regulations:

Title and scope.

1. (1) The title of these regulations is the Investment Services Act (Limited Partnership Funds Regulations), 202X.  
  
(2) The purpose of these regulations is to establish and regulate collective investment schemes set up as limited partnerships without legal personality.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires -

"the Act" means the Investment Services Act;

"Collective Investment Scheme" shall have the same meaning assigned to under the Act;

"Competent Authority" means the Malta Financial Services Authority established by the Malta Financial Services Authority Act;

"General Partner" shall have the same meaning assigned to it under regulation 9 of these regulations;

"Limited Partner" shall have the same meaning assigned to it under regulation 10 of these regulations;

"Limited Partnership Fund" shall have the same meaning assigned to it under regulation 4 of these regulations;

"Partnership Agreement" shall have the same meaning assigned to it under regulation 6 of these regulations;

(2) Words and expressions used in these regulations which are also used in the Act but which are not defined herein, shall have the same meaning assigned to them in the Act.

Competent authority.

3. The Malta Financial Services Authority shall be the designated competent authority in Malta for the purposes of Limited Partnership Funds and shall carry out the functions and duties as competent authority for all purposes of Limited Partnership Fund Regulations.

Limited Partnership Fund formation and constitution.

4. (1) A Limited Partnership Fund is a collective investment scheme, established in terms of these regulations by means of a Partnership Agreement, with at least one general partner and at least one limited partner.

Provided that a collective investment scheme, may only be established as a Limited Partnership Fund if it is licenced or recognised by, or notified to, the competent authority.

(2) A Limited Partnership Fund shall not have legal personality.

(3) A Limited Partnership Fund shall consist of:

(a) one or more general partners -

- (i). who are admitted to the Limited Partnership Fund as general partners in accordance with the Partnership Agreement;
- (ii). at least one of whom is a commercial partnership registered in Malta formed in terms of the Companies Act;
- (iii). who shall be jointly and severally liable for all debts of the Limited Partnership Fund without limitation, provided that no action shall lie against any of the general partners unless the property of the Limited Partnership Fund has first been discussed; and
- (iv). each of whom shall satisfy such eligibility and other criteria and requirements as are applicable to it, if any, in terms of the Act and Investment Services Rules issued by the competent authority under and within the meaning of the Act and, or in terms of the Partnership Agreement; and

(b) one or more limited partners who –

- (i) are admitted to the Limited Partnership Fund as limited partners in accordance with the Partnership Agreement;

- (ii) upon entering the Limited Partnership Fund, contribute, or agree to contribute to the capital thereof in accordance with the Partnership Agreement;
- (iii) subject to regulations 10(2), 11 and 17(2), shall not be liable for any debts of the Limited Partnership Fund beyond the amount so contributed or agreed to be contributed in accordance with the Partnership Agreement; and
- (iv) satisfy such eligibility and other criteria and requirements as are respectively applicable to them, if any, in terms of the Act and Investment Services Rules issued by the competent authority under and within the meaning of the Act and, or in terms of the Partnership Agreement.

(4) Subject to sub-regulation 3(a)(ii) of this regulation, any person, including a limited liability company, may be a partner, whether general or limited, in a Limited Partnership Fund.

(5) The assets of the Limited Partnership Fund shall be deemed to constitute a distinct patrimony, separate from the assets of the general partners or limited partners.

(6) Creditors of the general partners or of the limited partners shall have no recourse against the assets attributable to the Limited Partnership Fund.

Limited Partnership Fund name.

5. (1) Subject to the provisions of sub-regulations (3) and (4), a Limited Partnership Fund may be designated by any name, but such name shall end with the words "Limited Partnership Fund" or its abbreviation "LPF" or "L.P.F."
- (2) No person carrying on any business in Malta, other than a Limited Partnership Fund or a partner therein, shall in any way or manner describe itself or himself or so hold itself or himself out or reasonably be understood to indicate, or use any name which indicates or may reasonably be understood to indicate that it or he is, or is carrying on business as, a Limited Partnership Fund or, as the case may be, a partner therein. Without prejudice to the aforesaid, an undertaking which is validly established under the laws of a country other than Malta with a name which includes "Limited Partnership Fund" or its abbreviation "LPF" or "L.P.F.", or a partner therein, who lawfully carries on business in Malta, shall not be deemed to be in breach of this sub-regulation (2) simply by reason of the fact that it uses and carries on such business under the name by which such undertaking is so validly established in its country of registration or, as the case may be, describes himself as a partner in such undertaking with such name.
- (3) A Limited Partnership Fund shall not be established by a name which –

- (a) is the same as the name of another commercial partnership registered under the Companies Act, or a Limited Partnership Fund or so nearly similar as in the opinion of the competent authority it could create confusion; or
  - (b) is in the opinion of the competent authority offensive or otherwise undesirable.
- (4) The name of a limited partner or a distinctive part thereof may not form part of the name of the Limited Partnership Fund.
- (5) A limited partner who knowingly allows his name or a distinctive part thereof to be used in the name of a Limited Partnership Fund shall be liable as a general partner to any person who extends credit to the Limited Partnership Fund without knowledge that the limited partner is not a general partner.

#### Partnership Agreement.

- 6.** (1) A Limited Partnership Fund shall not be validly constituted unless a Partnership Agreement is entered into in writing and signed as provided in these regulations.
- (2) The Partnership Agreement may be a public deed or a private writing and shall be signed by at least the first general partner and the first limited partner.
- (3) To the extent so provided in the Partnership Agreement, the Partnership Agreement shall be binding upon the partners and their assigns and upon subsequent partners in the same manner as if those persons had themselves executed the same.
- (4) A Partnership Agreement shall expressly contain the following matters:
- (a). the name of the Limited Partnership Fund;
  - (b). that the Limited Partnership Fund is one constituted in terms of these regulations;
  - (c). the name and registered office address of the general partner or (if more than one) of each of the general partners;
  - (d). the principal office in Malta of the Limited Partnership Fund;
  - (e). the period, if any, fixed for the duration of the Limited Partnership Fund, and where no such period is fixed, a statement to that effect;
  - (f). the objectives for which the Limited Partnership Fund is being set up;
  - (g). the investment policy of the Limited Partnership Fund;
  - (h). the distribution policy, if any, of the income of the Limited Partnership Fund;
  - (i). the date of the closing of the accounts of the Limited Partnership Fund;
  - (j). the dissolution of the Limited Partnership Fund, without prejudice to the requirements set out in regulation 24;
  - (k). the procedure for the amendment to the Partnership Agreement;
  - (l). the procedure for the issue of units to participants;

- (m).the procedure for the redemption of units and the conditions under which redemptions may be carried out or suspended;
- (n). the method of valuation of the Limited Partnership Fund's assets;
- (o). the generally accepted accounting principles and practice being adopted by the Limited Partnership Fund in accordance with Investment Services Rules issued in this respect by the competent authority under and within the meaning of the Act;
- (p). the law governing the Limited Partnership Fund which, for the avoidance of doubt, need not be Maltese law);  
and
- (q). any other matter which the competent authority may, by Investment Services Rules published for this purpose, require.

Changes in Partnership Agreement and notification of changes.

7. (1) Unless otherwise provided in the Partnership Agreement, any alteration or addition to the Partnership Agreement may only be made with the unanimous consent of the partners.  
  
(2) The Limited Partnership Fund shall immediately notify the competent authority of any change in any of the matters contained in the Partnership Agreement, specifying the details of the change.  
  
(3) Where the change in the Partnership Agreement consists of the replacement of a general partner by a new general partner or the appointment of any additional general partner, the notification to the competent authority under sub-regulation (2) of this regulation shall specify the name and residence of the new general partner.  
  
(4) Where the extension of the period, if any, fixed for the duration of a Limited Partnership Fund is expressly provided for in the Partnership Agreement, the Limited Partnership Fund shall, notwithstanding that provision in the Partnership Agreement, notify the competent authority of the extension of the period of duration, at least fifteen days before the date so fixed.

Administration and Representation.

8. (1) The administration and representation of a Limited Partnership Fund shall vest in the general partners, and unless the Partnership Agreement otherwise provides, such administration and representation shall vest in each of the general partners severally:

Provided that, without prejudice to sub-regulations (7) to (10) of this regulation, the Partnership Agreement may contain provisions relating to the manner in which the

representation of the Limited Partnership Fund is to be exercised by the general partners, including restrictions on the powers of representation of any general partner, and the Partnership Agreement may also provide that the limited partners shall have the right to participate in decisions relating to the vesting or removal of powers of administration and representation of the Limited Partnership Fund in or from the general partners:

Provided further that, without prejudice to the joint or several powers of administration and representation of the general partners as provided above in sub-regulation (1) of this regulation, the said general partners vested with the administration and representation of the Limited Partnership Fund may by power of attorney authorise anyone of the general partners or any other person, including a limited partner, to represent the Limited Partnership Fund in any particular case or cases and, or for any particular purpose or purposes.

(2) Legal proceedings by or against a Limited Partnership Fund, including proceedings to enforce a foreign judgment or arbitral award by or against the Limited Partnership Fund, shall only be instituted by or against, and generally the general partners vested with the administration and representation of the Limited Partnership Fund; and, subject to the provisions of sub-regulations (3) and (4) of this regulation, no limited partner shall be a party to or named in such proceedings or exercise such judicial representation; in all cases without prejudice to the provisos to sub-regulation (1).

(3) The provisions of sub-regulation (2) of this regulation are without prejudice to the right of any person to join or otherwise institute proceedings against a limited partner:

- (a) who is liable for any debt of the Limited Partnership Fund pursuant to regulations, 10(2) or 11; or
- (b) to obtain payment of his contribution or repayment of any amount pursuant to regulation 17(2).

(4) A limited partner may, with leave of the court applied by means of an application, institute proceedings on behalf of a Limited Partnership Fund if –

- (a) the general partners have, without good cause, failed or refused to do so; and
- (b) the failure or refusal is oppressive to the limited partner or is prejudicial to his interests as a limited partner.

(5) A Limited Partnership Fund may not be bound in favour of third parties except by a partner acting under the name of the Limited Partnership Fund and having the representation of the Limited Partnership Fund either by virtue of the Partnership Agreement or by operation of law, including by virtue of a power of attorney as referred to in the second proviso to sub-regulation (1) of this regulation.

(6) Where any such partner has acted as aforesaid, the Limited Partnership Fund shall be bound even though it derives no benefit.

(7) Notwithstanding anything contained in the Partnership Agreement relating to the manner in which the representation of the Limited Partnership Fund is to be exercised, anything done by the partners vested with the administration and representation of a Limited Partnership Fund which exceeds the limits of their authority or by any partner vested with such administration and representation which is beyond his powers, shall be binding on the Limited Partnership Fund unless that act exceeds the powers granted to the partners vested with the administration and representation or to such partner so vested, as the case may be, by virtue of these regulations.

(8) Any limitation on the powers of the partners vested with the administration and representation of a Limited Partnership Fund or of any such partner shall not be relied on as against third parties independently of whether that limitation, published or not, arises from the Partnership Agreement or from a decision of the partners.

(9) Where an act of the Limited Partnership Fund falls outside the Limited Partnership Fund's objectives, the Limited Partnership Fund shall not be bound if it proves that, when the act was done, the third party knew that it was outside the Limited Partnership Fund's objectives or the third party could not in view of the circumstances have been unaware thereof:

Provided that the publication of the Partnership Agreement and of any subsequent changes to the matters stated therein shall not in itself be sufficient to prove that the third party knew, or could not have been unaware, that the act was outside the Limited Partnership Fund's objectives.

(10) Notwithstanding the provisions of these regulations or of the Partnership Agreement relating to the formalities of the appointment of a partner vested with the administration and representation of a Limited Partnership Fund and to his qualification, any irregularity concerning the appointment of such a partner raised after the completion of the publication of his appointment shall not be relied upon by the Limited Partnership Fund as against third parties unless the Limited Partnership Fund proves that such parties were aware of the irregularity at the relevant time. Third parties who were not aware of such irregularities at the relevant time may rely on that irregularity as against the Limited Partnership Fund.

(11) Any return, notice or other communication to the Competent Authority required to be delivered or made by a Limited Partnership Fund under any of these regulations shall be deemed to be required to be done by the partners vested with the administration and representation of the Limited Partnership Fund, and where and for so long as there are no general partners in the Limited Partnership Fund capable or willing to act within the prescribed time for delivery or making of such return, notice or other communication, the same may also be delivered or made by any limited partner.

General partner.

9. (1) Unless otherwise provided in the Partnership Agreement, a general partner of a Limited Partnership Fund (hereinafter in this regulation 9 referred to as the "Relevant Limited Partnership Fund") shall not, without the express consent of the other partners or as otherwise expressly provided in the Partnership Agreement:
- (a) carry on business on his own account or on account of others in competition with the Relevant Limited Partnership Fund;
  - (b) be a partner with unlimited liability in another commercial partnership or a director in a company which is in competition with the Relevant Limited Partnership Fund;
  - (c) deal in any manner with any property of the Relevant Limited Partnership Fund or with rights of the Relevant Limited Partnership Fund in any such property, for any purpose other than a purpose of the Relevant Limited Partnership Fund; or
  - (d) admit a person as a partner in the Relevant Limited Partnership Fund otherwise than in accordance with the Partnership Agreement.
- (2) If a partner acts in contravention of the provisions of sub-regulation (1)(a), (b), (c) or (d) of this regulation, the other partners may, at their discretion, either take action for damages and interest against the offending partner or demand payment of any profit made by him in violation of the relevant prohibition.
- (3) The provisions of this regulation 9 shall be without prejudice to any other remedy which other partners may have against a general partner for breach of duty.
- (4) The provisions of this regulation 9 or any other provisions of these regulations shall also be without prejudice to any other duties, fiduciary or otherwise, which may be incumbent upon a general partner or to which a general partner may be subject by virtue of the Partnership Agreement or by virtue of any laws, regulations, rules of the competent authority or any condition of any licence or other authorisation, which may be applicable to such general partner.
- (5) Save as otherwise expressly provided in these regulations or in the Partnership Agreement, decisions of the general partners related to the business of the Limited Partnership Fund shall be taken by a simple majority of the general partners entitled to participate in the decision.
- (6) A general partner shall not transact business on behalf of the Limited Partnership Fund unless otherwise expressly declared in the transaction.



Limited partner.

- 10.** (1) A limited partner shall not perform any act of administration nor transact business on behalf of the Limited Partnership Fund, and shall not transact the business of, sign or execute documents for or otherwise bind the Limited Partnership Fund, except by virtue of a power of attorney given for specified acts or transactions or otherwise as provided and in the circumstances contemplated in sub-regulation (2) of regulation 24.
- (2) A limited partner who acts or purports to act in contravention of the provisions of sub-regulation (1) of this regulation, shall be liable as if he were a general partner in respect of all debts incurred as a result of his so acting.
- (3) A limited partner shall not be deemed to have acted in contravention of the provisions of sub-regulation (1) of this regulation by reason only of any one or more of the following circumstances:
- (a) he is an employee, agent, or contractor of the Limited Partnership Fund or of a general partner thereof;
  - (b) he acts as an officer, employee, or shareholder of a corporate general partner of the Limited Partnership Fund, or acts as a partner of a general partner of the Limited Partnership Fund;
  - (c) he consults with and advises a general partner of the Limited Partnership Fund as to the business of the Limited Partnership Fund;
  - (d) he investigates, reviews, approves, or is advised as to the accounts or affairs of the Limited Partnership Fund;
  - (e) he exercises any right or power conferred on limited partners by these regulations or any right or power conferred on limited partners by the Partnership Agreement;
  - (f) he approves or disapproves an amendment to the Partnership Agreement;
  - (g) he participates in or requests the appointment or removal of an auditor of the Limited Partnership Fund;
  - (h) he calls, convenes, requests, attends, or participates in, or votes as a limited partner in, any meeting of the partners;
  - (i) he participates in the appointment or removal of any person to serve or serving on any board or committee of the Limited Partnership Fund or of a general partner thereof;
  - (j) without prejudice to the generality of sub-regulation (i), he appoints or removes a representative to any advisory committee of the Limited Partnership Fund and, or undertakes such representative's actions in that capacity;
  - (k) he acts as surety or guarantor of, or provides security for the obligations undertaken by, the Limited Partnership Fund;
  - (l) he lends money to, borrows money from or enters into transactions with the Limited Partnership Fund;
  - (m) he approves or vetoes a type of investment or particular investment to be made by the Limited Partnership Fund;

- (n) he exercises a right to opt into or out of any investment to be made by the Limited Partnership Fund;
- (o) he approves or vetoes any valuation of the Limited Partnership Fund's investments;
- (p) he approves or vetoes any conflict of interest relating to the Limited Partnership Fund or its business or any partner in the Limited Partnership Fund.

(4) The provisions of the immediately preceding sub-regulation shall not be construed as meaning that, if a limited partner exercises any other right, power, or function, he has necessarily, by reason of that fact alone, acted in contravention of the provisions of sub-regulation (1) of this regulation.

(5) A limited partner may, subject to the provisions of the Partnership Agreement and as and to the extent provided therein, but without prejudice to any rights granted to him by virtue of these regulations –

- (a) inspect the books of the Limited Partnership Fund;
- (b) with such assistance as may reasonably be required of the general partners, examine and inquire into the state and prospects of the business of the Limited Partnership Fund, and advise the partners thereon;
- (c) request and obtain true and full information of all things affecting the Limited Partnership Fund; and
- (d) request and obtain a formal account of the affairs of the Limited Partnership Fund whenever circumstances render it just and reasonable.

Person holding himself out to be a general partner.

- 11.** A person, including a limited partner, who holds himself out as being a general partner shall be held liable unlimitedly and jointly and severally with the general partners for all the obligations contracted by the Limited Partnership Fund while he so holds himself out.

When a limited partner ceases to be a partner.

- 12.** (1) A person shall cease to be limited partner of a Limited Partnership Fund:
- (a) upon the valid and absolute assignment of the whole of his interest in the Limited Partnership Fund; or
  - (b) at such time and, or upon the occurrence of such event as may be so specified in the Partnership Agreement.

Such cessation shall be evidenced by means of an entry to that effect in the register of partners.

(2) The fact that a person has ceased to be a limited partner shall not relieve him of any liability arising under regulations 10(2), 11 and 17(2).

(3) The fact only that a person ceases to be a limited partner shall not constitute a change or amendment to the Partnership Agreement.

(4) Unless the Partnership Agreement otherwise provides and subject to the provisions thereof and to the provisions of regulation 14 of these regulations, in the event of death or dissolution or other cessation of existence of a limited partner, the Limited Partnership Fund shall continue with the heirs or other relevant successors in title to the respective interests of such limited partner in the Limited Partnership Fund.

(5) When a person ceases to be a limited partner in a Limited Partnership Fund in the cases referred to in sub-regulation (1)(b) of this regulation, such person shall have such rights as to liquidation of his interests in the Limited Partnership Fund and other rights to assets of the Limited Partnership Fund, and at such time or times, and shall be subject to such obligations, as may be provided for in the Partnership Agreement.

When a general partner ceases to be a partner.

- 13.** (1) A person shall, subject to the provisions of the Partnership Agreement, cease to be a general partner of a Limited Partnership Fund, upon the occurrence of any of the following events:
- (a) his resignation, retirement, removal or expulsion in accordance with the requirements, if any, of the Partnership Agreement;
  - (b) in the case of a natural person his bankruptcy, death or legal incapacity or interdiction; or
  - (c) in the case of a general partner which is a body corporate, the dissolution thereof.

Such cessation shall be evidenced by means of an entry to that effect in the register of partners.

(2) In the cases referred in sub-regulations (1)(b) and (c) of this regulation, the curator or other person having similar functions with respect to the estate of the bankrupt general partner, the heirs or other relevant successors to the estate of the deceased general partner, the guardian, tutor or other person having similar functions with respect to the estate of the incapacitated or interdicted general partner, or the liquidator, directors, general partners or equivalent body or persons charged with the responsibility of the administration of the affairs of the dissolved general partner after its dissolution, as the case may be, shall have a duty to inform the Limited Partnership Fund of the

respective event mentioned in such sub-regulations (1)(b) and (c) as soon as possible and in no case later than ten days following the happening thereof.

(3) A general partner shall not be relieved of any obligation under these regulations until such time as the notice of cessation is notified to the competent authority. Nothing in the foregoing shall affect the continued liability of a general partner in terms of law for his obligations arising whilst he was a general partner.

(4) In accordance with Regulation 7(2) and for purposes of this regulation, it shall be the duty of the Limited Partnership Fund to notify the competent authority of the cessation of a general partner from being a partner.

Provided that, in the cases referred in sub-regulation (1)(a) of this regulation, it shall also be the duty of the person ceasing to be a general partner to notify the competent authority of such cessation.

Admission of additional limited partners.

- 14.** Subject to the provisions of the Partnership Agreement, a Limited Partnership Fund shall allow any number of partners to become limited partners in the Limited Partnership Fund. A person shall not be admitted as a limited partner in a Limited Partnership Fund except –
- (a) in accordance with the provisions of the Partnership Agreement and subject to any prior approval by the Limited Partnership Fund required for such admission in terms of the Partnership Agreement and, or pursuant to regulation 4(3)(b)(iv) above;
  - (b) by the execution of an agreement in writing with the Limited Partnership Fund and, or with such other partners as required by the Partnership Agreement.

Such admission shall be evidenced by the entry of the particulars of the new limited partners in the register of partners.

Assignment of interest of limited partner.

- 15.** (1) Subject to the provisions of the Partnership Agreement –
- (a) the interest of a limited partner is assignable in whole or in part;
  - (b) an assignment by a limited partner of his interest in the Limited Partnership Fund or any part thereof:
    - (i) shall not dissolve the Limited Partnership Fund;
    - (ii) shall not be valid unless made in writing and in accordance with other requirements, if any, of the Partnership Agreement and these regulations, including (without limitation) any prior approval by the Limited

Partnership Fund required for such assignment in terms of the Partnership Agreement and regulation 4(3)(b)(iv) of these regulations;

- (iii) shall not, unless and until the assignee is admitted to the Limited Partnership Fund as a limited partner in accordance with the provisions of regulation 14, entitle the assignee to become or to exercise any right or power of a limited partner;
- (iv) shall, upon the assignee being admitted to the Limited Partnership Fund as a limited partner in accordance with the provisions of regulation 14, entitle the assignee to the rights and powers and, subject to point (v), render him subject to the restrictions and obligations (including any obligation to make contributions to the capital of the Limited Partnership Fund) to which the assignor was entitled or subject in respect of the interest assigned immediately before the assignment, and simultaneously the assignor shall no longer be entitled to exercise those rights and powers and, shall be discharged from those restrictions and obligations;
- (v) shall not relieve the assignor of any liability arising under regulations 10(2), 11 or 17(2).

- (c) a limited partner, upon the valid and absolute assignment of the whole of his interest in the Limited Partnership Fund and the admission of the assignee as a limited partner in accordance with the provisions of regulation 14, shall cease to be a limited partner and to be entitled to exercise any right or power of a limited partner.

(2) The agreement or instrument of assignment in writing referred to in sub-regulation (1)(b)(ii) of this regulation or an authentic copy thereof shall be delivered by the assignor or the assignee to the Limited Partnership Fund simultaneously with or as soon as possible after the execution thereof unless the Limited Partnership Fund is also party to it.

(3) The admission of the assignee as a limited partner and the assignment of an interest in the Limited Partnership Fund between an assignee and an assignor shall be effective on the date when the requirements and conditions for the admission of the assignee as a limited partner referred to in regulation 14 and the requirements of sub-regulation (1)(b)(ii) and (2) of this regulation have been satisfied or, if later, the date agreed to between the assignor and the assignee in the agreement or instrument of assignment, and in such latter case the assignee shall be admitted to the Limited Partnership Fund with effect from such later date.

Indemnification by the general partners.

- 16.** Subject to the provisions of the Partnership Agreement, the general partners may indemnify any partner from and against all or any claims, demands, debts and other

liabilities whatsoever, and may also purchase and maintain for any partner insurance against any such liability as aforesaid.

Return of limited partner's contribution.

- 17.** (1) A Limited Partnership Fund shall not, on dissolution or otherwise, make any payment from its capital to any limited partner representing a return of any part of his contribution to the Limited Partnership Fund unless, at the time of and immediately following the making of the payment, the Limited Partnership Fund is solvent.
- (2) Where the Limited Partnership Fund is insolvent at the time of or immediately following the making of any such payment, or in the event of insolvency of the Limited Partnership Fund within a period of six months immediately following the time of making such payment, the payment shall, for a period of one year from the date of its receipt by the limited partner, be repayable by him to the extent necessary to discharge any debt of the Limited Partnership Fund incurred at a time when his contribution formed part of the assets of the Limited Partnership Fund.
- (3) Subject to the provisions of sub-regulations (1) and (2) of this regulation and regulation 24, a limited partner may demand the return of his contribution –
- (a) on the dissolution of the Limited Partnership Fund; or
  - (b) at such time or upon the occurrence of such event or events as may be specified in the Partnership Agreement.
- (4) A limited partner may, notwithstanding the nature of his contribution, demand and receive only money in return, unless –
- (a) the Partnership Agreement provides otherwise; or
  - (b) all partners agree otherwise.
- (5) Any reference in this paragraph, however expressed, to the receipt by a partner of a payment shall include a reference to the release of any debt owed by him and forming part of the assets of the Limited Partnership Fund (including any obligation on his part to make a contribution to the capital of the Limited Partnership Fund, and accordingly any reference in sub-regulation (2) of this regulation to the making of a repayment by a partner shall be deemed to include a reference to the due performance by him of the debt or obligation.
- (6) For the purposes of these regulations the expression "solvent" means that the Limited Partnership Fund is able to pay its debts in full, as they fall due, out of the assets of the Limited Partnership Fund without recourse to the separate assets of the general partners not contributed to the Limited Partnership Fund; and the expression "insolvent" shall be construed accordingly.

(7) A distribution of any assets of a Limited Partnership Fund to a limited partner shall be deemed to be a return of contribution for the purposes of the provisions of sub-regulation (1) of this regulation, to the extent that the distribution reduces the value of his share in the assets of the Limited Partnership Fund, calculated on the basis of the value of the net assets of the Limited Partnership Fund, below the value of the amount contributed or agreed to be contributed by him.

#### Distributions by Limited Partnership Fund.

- 18.** Without prejudice to regulation 17, no distributions of capital or profits shall be made to the partners, if at the time or as a result of such distributions, the Limited Partnership Fund would be insolvent.

#### Acts in fraud of creditors.

- 19.** (1) Without prejudice to regulations 17 and 18, every act transferring property, whether corporeal or incorporeal, including any rights of action and any renunciation of an acquired prescription, and every obligation incurred or other act made by a Limited Partnership Fund which is insolvent or which becomes insolvent as a result of such act or obligation, and which is made under a gratuitous title for the purpose of defrauding the creditors of the Limited Partnership Fund, shall be null and void as regards the body of creditors, of whatever kind they may be, even though the parties interested be in good faith.
- (2) Every act of the same kind and every obligation made or incurred under an onerous title can be annulled if there be fraud also on the part of the party interested.
- (3) Any such act or obligation shall be deemed to be fraudulent as regards the party interested, if it is proved that such party knew of the insolvency of the Limited Partnership Fund (whether already existing at the time of the act or obligation or resulting from such act or obligation) or of the existence of circumstances giving rise to such insolvency.

#### Use of Special Purpose Vehicle

- 20.** A Limited Partnership Fund may establish one or more companies or other structures of a corporate or unincorporate nature for the purpose of investing and holding assets on behalf of the Limited Partnership Fund in accordance with the Partnership Agreement.

Application of Rules and regulations to Limited Partnership Funds and their service providers.

- 21.** (1) Unless the context otherwise requires and unless otherwise provided in Investment Services Rules issued by the competent authority applying specifically to Limited Partnership Funds, any rules and regulations applicable in general to collective investment schemes and their managers and custodians, shall also apply to Limited Partnership Funds and their service providers.(2) For the better carrying out of the provisions of these regulations the competent authority may, from time to time, issue and publish rules which shall be binding on Limited Partnership Funds and any other persons as may be specified therein.

Records.

- 22.** (1) A Limited Partnership Fund shall maintain the following or a copy thereof at the principal office:
- (a) the Partnership Agreement and every amendment thereof;
  - (b) a register of partners showing their full names and addresses together with an indication of who is a general and who is a limited partner;
  - (c) the capital account of each limited partner showing whichever of the following is applicable in relation to such limited partner –
    - (i) the amounts and dates of his contributions;
    - (ii) the amounts agreed to be contributed and the times at which or events upon which the contributions are to be made;
    - (iii) the amounts and dates of any payments representing a return of his contributions or any part thereof;
    - (iv) where an agreement or obligation to make a contribution is released in whole or in part, the amount and the date of such release;
  - (d) its accounting records;
  - (e) the minutes of all meetings of the general partners relating to the Limited Partnership Fund;
- (2) All documents or copies of documents required by sub-regulation (1) of this regulation to be kept at the principal office shall, subject to the provisions of the Partnership Agreement, be available for inspection by any partner during normal business hours.
- (3) The documents mentioned in sub-regulations (1)(b) and (c) shall constitute *prima facie* evidence of the matters specified therein.
- (4) Any duty imposed by these regulations to allow inspection, or to furnish a copy, of documents to be kept by the Limited Partnership Fund shall, irrespective of the medium in which such documents are maintained, be construed as a duty to allow inspection, or to furnish a copy, of such documents in legible form.



Accounting Requirements.

- 23.** Every Limited Partnership Fund shall maintain proper accounting records which shall be:
- (a) sufficient to show and explain the Limited Partnership Fund's transactions;
  - (b) such as to disclose with reasonable accuracy, at any time, the Limited Partnership Fund's financial position at that time;
  - (c) such as to enable the general partners to ensure that the Limited Partnership Fund's balance sheet and profit and loss account are prepared properly and in accordance with generally accepted accounting principles and practice prescribed in the Agreement in accordance with Investment Services Rules issued by the competent authority under and within the meaning of the Act ;
  - (d) such as to contain day to day entries of all sums of money received and expended by the Limited Partnership Fund and the matters in respect of which the receipt and expenditure takes place;
  - (e) such as to contain a record of the assets and liabilities of the Limited Partnership Fund;
  - (f) the individual accounts of a Limited Partnership Fund shall give a true and fair view of the Limited Partnership Fund's assets, liabilities, financial position and profit or loss; and
  - (g) sufficient to submit to the competent authority its annual accounts and any other financial statements and any other returns in terms of the Investment Services Rules.

Dissolution of a Limited Partnership Fund.

- 24.** (1) A Limited Partnership Fund shall be dissolved upon the occurrence of any of the following events:
- (a) upon the happening of any event specified in the Partnership Agreement;
  - (b) upon the date fixed for its duration in the Partnership Agreement, if any, unless a return or notice of its extension is notified to the competent authority in terms of regulation 7(2) or (3) not less than fifteen days before the date so fixed;
  - (c) upon the written agreement of all partners that the Limited Partnership Fund shall be dissolved;
  - (d) if there is no general partner for a period of six months;
  - (e) if there is no limited partner for a period of six months.
- (2) Where no general partner remains, the limited partners may, for the said period of six months, appoint one of their number or any other person for the performance of acts of ordinary administration and any limited partner or other person appointed pursuant to the provisions of this sub-regulation shall not incur any liability which would otherwise be incurred under these regulations for performing acts of ordinary administration during the said six month period.

(3) Subject to the provisions of the Partnership Agreement and regulation 24(1)(a), (d) and (e) and without prejudice to regulation 24(1)(c), a Limited Partnership Fund shall not be dissolved by any change in the limited partners or general partners, or by the bankruptcy, insolvency, death, retirement, removal, resignation, legal incapacity or interdiction or dissolution of any limited partner or general partner whether an individual, partnership, company or other body corporate.

#### Administrative Penalties.

**25.** (1) Where a person falling within the scope of these regulations fails to comply with any provisions of such regulations or any rules issued thereunder further implementing such regulations, the competent authority may, by notice in writing and without recourse to a court hearing, impose on such person an administrative penalty and other administrative measures in accordance with article 16A of the Act.

(2) A right of appeal to the Financial Services Tribunal shall lie from the decisions which the competent authority shall take under these regulations and the provisions of article 19 of the Act shall apply *mutatis mutandis*.

#### Disapplication of other legislative instruments.

**26.** (1) The provisions of Title V of Part I of Book Second of the Civil Code shall not apply to property held in a Limited Partnership Fund.

(2) The provisions of Title X of Part II of Book Second of the Civil Code shall not apply to Limited Partnership Funds.

(3) The provisions of Title III of the Second Schedule to the Civil Code shall not apply to Limited Partnership Funds.