

CAYMAN ISLANDS



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**A BILL FOR A LAW TO REPEAL THE EXEMPTED LIMITED
PARTNERSHIP LAW (2013 REVISION) AND MAKE FURTHER
PROVISION FOR THE REGULATION OF EXEMPTED LIMITED
PARTNERSHIPS; AND FOR INCIDENTAL AND CONNECTED
PURPOSES**

THE EXEMPTED LIMITED PARTNERSHIP BILL, 2014

MEMORANDUM OF OBJECTS AND REASONS

This Bill would make further provision for the registration, licensing and regulation of exempted limited partnerships and provide for incidental and connected purposes.

Clause 1 of the Bill would set out the short title.

Clause 2 of the Bill would provide for the definitions of the words and terms used in the Bill.

Clause 3 of the Bill would make provision for the rules of equity and common law as modified by certain provisions of the Partnership Law (2013 Revision) to be applicable to exempted limited partnerships.

Clause 4 of the Bill would make provision for the constitution of exempted limited partnerships. It would permit bodies corporate and partnerships, with or without limitation to be either general or limited partners in an exempted limited partnership. This clause would specify that limited partner of a general partner of an exempted limited partnership does not automatically make that partner a general partner of the exempted limited partnership. It would also specify that a limited partner of an exempted limited partnership does not lose the benefit of limited liability if the partnership ceases to have a qualifying general partner.

Clause 5 of the Bill would make provision for the circumstances under which a licence is not required for a person acting as a general partner of an exempted limited partnership.

Clause 6 of the Bill would make provision for what is permitted to constitute the name of an exempted limited partnership and the location of registered offices.

Clause 7 of the Bill would prevent an exempted limited partnership from operating in that capacity unless registered under the legislation.

Clause 8 of the Bill would make provision for the Registrar under the Companies Law to be the Registrar for the purposes of regulating exempted limited partnerships.

Clause 9 of the Bill would set out the process by which an exempted limited partnership may be registered and the fees associated with registration. It would also set out the reasons for which the Registrar may refuse to register a partnership.

Clause 10 of the Bill would make provision for the manner in which changes in registered particulars are to be treated. It would specify the time frame in which the Registrar is to be notified of changes and the penalties associated with and consequences of default in notification.

Clause 11 of the Bill would permit the court, upon application, to give directions or make orders to ensure that statements required to be signed or filed under the legislation, are signed or filed so as to prevent loss for a person who may be affected by failure to comply with these requirements.

Clause 12 of the Bill would make provision for the issue of copies of certificates of registration and certificates of good standing. It would also make provision for these certificates to be received in evidence in court proceedings.

Clause 13 of the Bill would make provision for registration to be expedited on payment of express fees and set out the fees applicable.

Clause 14 of the Bill would prevent a limited partner from taking part in the conduct of the business of an exempted limited partnership in that capacity. It would also make provision for the execution of documents.

Clause 15 of the Bill would make provision for the delegation of the authority and responsibility of a general partner.

Clause 16 of the Bill would make provision for the vesting of rights, properties and liabilities of exempted limited partnerships, in the partners.

Clause 17 of the Bill would make provision for the vesting of rights and property in partners joining an exempted limited partnership.

Clause 18 of the Bill would set out the manner in which a partner may conduct business with the exempted limited partnership.

Clause 19 of the Bill would require a general partner to act in good faith with respect to the interests of the partnership.

Clause 20 of the Bill would set out the liability of limited partners in an exempted limited partnership. It would also set out the services that may be provided by a limited partner to an exempted limited partnership.

Clause 21 of the Bill would make provision for the manner in which accounts are to be kept.

Clause 22 of the Bill would permit a limited partner to demand from a general partner a full account of the status of the business of the exempted limited partnership.

Clause 23 of the Bill would provide that differences arising from the conduct of the business of the exempted limited partnership are to be settled by the general partner or a majority of the partners.

Clause 24 of the Bill would make provision for the regulation and establishment of boards and committees of the partnership.

Clause 25 of the Bill would make provision for the penalties for and the consequences of non-performance of the obligations or duties of a partner.

Clause 26 of the Bill would permit a person to enter into a beneficial agreement with a partnership without the obligation of becoming a partner.

Clause 27 of the Bill would set out the circumstances under and the manner in which documents relating to the partnership are validly executed.

Clause 28 of the Bill would provide for the creation of a power of attorney under this Law and the validity of the creation of that power as regards the requirements of the Powers of Attorney Law (1996 Revision) and the Property (Miscellaneous Provisions) Law (2011 Revision).

Clause 29 of the Bill would make provision for the registration of limited partnership interests. It would also make provision for the Tax Information Authority to request information from the general partner.

Clause 30 of the Bill would require the general partner to maintain the records of the partnership and set out the standards for proper maintenance of records.

Clause 31 of the Bill would make provision for the registration of security interests.

Clause 32 of the Bill would provide for the transfer of partnership interests. It would set out the procedure for transfer and the effect of transfer as regards rights, property and liabilities.

Clause 33 of the Bill would set out the manner in which proceedings may be commenced by or against a partnership.

Clause 34 of the Bill would set out the manner in which contributions of partners are to be dealt with where issues regarding the insolvency of the partnership are also being dealt with.

Clause 35 of the Bill would set out the manner in which a partnership may not be dissolved.

Clause 36 of the Bill would set out the procedure for dissolution.

Clause 37 of the Bill would set out the circumstances under which the Registrar may strike the name of a partnership off of the register.

Clause 38 of the Bill would make provision for the waiver of taxes that apply or would in future apply to partnerships.

Clause 39 of the Bill would set out the procedure for filing annual returns and the manner in which filing is to be done.

Clause 40 of the Bill would set out the reasons for which a partnership, which was registered under another Law, may be required to be re-registered under this Law. It would also set out the procedure for re-registration.

Clause 41 of the Bill would make provision for a partnership to be de-registered.

Clause 42 of the Bill would make provision for the registration of foreign limited partnerships. It would also make provision for the fees applicable on registration of these partnerships.

Clause 43 of the Bill would make provision for an entity registered under a law of a jurisdiction outside of the Islands to be de-registered and continued under this Law.

Clause 44 of the Bill would provide for the issue of a certificate of de-registration.

Clause 45 of the Bill would make provision for the issue of the notice of de-registration.

Clause 46 would make provision for the Registrar to issue a certificate of good standing to an exempted limited partnership.

Clause 47 of the Bill would provide for the conduct of business electronically.

Clause 48 of the Bill would make provision for the making of Regulations.

Clause 49 of the Bill would make provision for the recovery of penalties due to be paid to the Registrar.

Clause 50 of the Bill would repeal the Exempted Limited Partnership Law (2013 Revision) and set out savings provisions.

THE EXEMPTED LIMITED PARTNERSHIP BILL, 2014

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CAYMAN ISLANDS

A BILL FOR A LAW TO REPEAL THE EXEMPTED LIMITED PARTNERSHIP LAW (2013 REVISION) AND MAKE FURTHER PROVISION FOR THE REGULATION OF EXEMPTED LIMITED PARTNERSHIPS; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Exempted Limited Partnership Law, 2014.

Short title

2. In this Law -

Interpretation

“certified translator” means a person whose interpretation or translation competence has been tested and approved by a professional association or governmental body or any other person determined by the Registrar;

“commitment” means cash, property, services rendered or other assets which a partner agrees to contribute to the capital of an exempted limited partnership in its capacity as partner but does not include any moneys agreed to be lent to an exempted limited partnership;

“Companies Law” means the Companies Law (2013 Revision);

2013 Revision

“contribution” means cash, property, services or other assets which a partner contributes to the capital of an exempted limited partnership in its capacity as partner but does not include any moneys lent by a partner to an exempted limited partnership;

“court” means the Grand Court;

“dual foreign name” means an additional name in any language not utilizing the Roman alphabet, utilizing any letters, characters, script, accents and other diacritical marks, and which does not have to be a translation or transliteration of the name in the Roman alphabet;

“exempted limited partnership” means –

- (a) a partnership formed and registered under section 9(1); or
- (b) a partnership that before the commencement of this Law was formed and registered under the Exempted Limited Partnership Law (2013 Revision);

2013 Revision

“general partner” means a person who is named as such in the statement filed pursuant to section 9 or 10(2) and if more than one shall mean each general partner, unless this Law otherwise provides;

“general partnership interest” means the partnership interest of a general partner in his capacity as such;

“insolvency of the exempted limited partnership” means that the general partner is unable to pay the debts and obligations of the exempted limited partnership, otherwise than in respect of liabilities to partners on account of their partnership interests, in the ordinary course of business as they fall due out of the assets of the exempted limited partnership, without recourse to the separate assets of the general partner not contributed or committed to the exempted limited partnership and “insolvent” shall be construed accordingly;

“limited partner” means a person who has become a limited partner in accordance with section 4(2) or otherwise pursuant to section 32;

“limited partnership interest” means the partnership interest of a limited partner in his capacity as such;

“majority of limited partners” means a majority or number of limited partners, or class or category of limited partners, or other persons, whether parties to the partnership agreement or otherwise including the general partner, required by or specified, either generally or in respect of a particular matter, in the partnership agreement and calculated in the manner specified in the partnership agreement, but if no such majority or manner is specified in the partnership agreement any required majority of the limited partners shall be a simple majority of the limited partners calculated by reference to the value of the contributions of the limited partners at the time of determination;

“overseas company” means a company, body corporate or corporate entity existing under the law of a jurisdiction outside of the Islands;

“part” means, in relation to a partnership interest, a proportionate part of that partnership interest, comprising both the rights, and the obligations under the

partnership agreement and this Law but without prejudice to the liability of a general partner under section 4(2);

“partner” means a limited partner or a general partner;

“partnership agreement” means any agreement of the partners which provides for the establishment of, and regulates the affairs of, an exempted limited partnership, the conduct of its business and the rights and obligations of the partners amongst themselves;

“partnership interest” means the interest of a partner in an exempted limited partnership in respect of profit, capital and voting or other rights, benefits or obligations to which he is entitled or subject pursuant to the partnership agreement or this Law;

“Partnership Law” means the Partnership Law (2013 Revision)

2013 Revision

“public in the Islands” excludes any exempted or ordinary non-resident company registered under the Companies Law, a foreign company registered pursuant to Part IX of the Companies Law, any company acting as general partner of a partnership registered under section 9(1) or any director or officer of the same acting in that capacity or the trustee of any trust registered or capable of registration under section 74 of the Trusts Law (2011 Revision) acting in that capacity;

2011 Revision

“qualifying general partner” means a general partner of an exempted limited partnership that satisfies paragraph (a), (b), (c) or (d) of section 4(4);

“Registrar” means the Registrar of Exempted Limited Partnerships appointed in accordance with section 8;

“registered office provider” means in relation to an exempted limited partnership the person who provides the registered office for that exempted limited partnership;

“security interest” means a legal mortgage, an equitable mortgage, charge or other form of security interest granted with respect to a partnership interest or part thereof whether or not governed by the laws of the Islands;

“signature” includes a facsimile of a signature however reproduced and a digital signature;

“special economic zone business” means any type of business authorized to be carried on in a special economic zone pursuant to any Law in force in the Islands; and

“translated name” means a translation or transliteration of an exempted limited partnership's dual foreign name into the English language provided by either a person licensed to provide the exempted limited partnership's registered office in

the Islands or a certified translator, together with a statement as to the foreign language in which the dual foreign name is written.

Saving of rules of equity
and common law

2013 Revision

3. The rules of equity and of common law applicable to partnerships as modified by the Partnership Law but excluding sections 31, 45 to 54 and 56 to 57 shall apply to an exempted limited partnership, except where they are inconsistent with the express provisions of this Law.

Constitution

4. (1) An exempted limited partnership may be formed for any lawful purpose to be carried out and undertaken either in or from within the Islands or elsewhere upon the terms, with the rights and powers, and subject to the conditions, limitations, restrictions and liabilities mentioned in this Law but an exempted limited partnership shall not undertake business with the public in the Islands other than so far as may be necessary for the carrying on of the business of that exempted limited partnership exterior to the Islands.

(2) An exempted limited partnership shall consist of one or more persons called general partners who shall, in the event that the assets of the exempted limited partnership are inadequate, be liable for all debts and obligations of the exempted limited partnership, and one or more persons called limited partners who shall not be liable for the debts or obligations of the exempted limited partnership save as provided in the partnership agreement and to the extent specified in sections 20(1) and 34(1), but a general partner, without derogation from his position as such, may, in addition, take an interest as a limited partner in the exempted limited partnership.

(3) A body corporate, with or without limited liability, and a partnership whether in the name of the partnership and whether or not an exempted limited partnership, may be a general or limited partner of an exempted limited partnership.

(4) Any one or more of the limited partners and general partners of an exempted limited partnership may be resident, domiciled, established, incorporated or registered under the laws of the Islands or outside of the Islands but at least one general partner shall -

- (a) if an individual, be resident in the Islands;
- (b) if a company, be registered under the Companies Law or registered pursuant to Part IX of the Companies Law;
- (c) if a partnership, be registered pursuant to section 9(1) or 42, as applicable; or
- (d) if any other person, be registered under any other Law or regulation as may be prescribed.

(5) A limited partner, or person with analogous status, of a partnership which is the general partner of an exempted limited partnership shall not, by

virtue of that fact alone, be taken to be a general partner of the exempted limited partnership.

(6) A limited partner of an exempted limited partnership shall not cease to have the benefit of limited liability by reason only of the partnership ceasing to have a qualifying general partner.

5. A person who acts as a general partner of an exempted limited partnership is not, by virtue solely of so acting, required to be licensed under the Local Companies (Control) Law (2007 Revision) and shall not require a trust company licence under the Banks and Trust Companies Law (2013 Revision), a mutual fund administrator’s licence under the Mutual Funds Law (2013 Revision), a licence under the Companies Management Law (2003 Revision) or a licence under the Trade and Business Licensing Law (2007 Revision).

When licence not required
2007 Revision
2013 Revision
2013 Revision
2003 Revision
2007 Revision

- 6. (1) Every exempted limited partnership shall have a name which -
 - (a) shall include the words “Limited Partnership” or the letters “L.P.” or “LP”;
 - (b) may include the name of any general partner or limited partner or any derivation thereof; and
 - (c) in the case of an exempted limited partnership carrying on special economic zone business, shall include the words “special economic zone” or the letters “SEZ”,

Name and registered office

in each case which may be preceded by or followed with a dual or foreign name, but no exempted limited partnership shall have a name or translated name which, because it is identical or similar to the name of any other entity or it falsely suggests the patronage of or a connection with some person or authority or it suggests that the exempted limited partnership is licensed whether in the Islands or elsewhere to carry on any type or class of business when it is not in fact so licensed or because of any other reason, is calculated or likely to mislead.

(2) Every exempted limited partnership shall have a registered office situate in the Islands for the service of process and to which all notices and communications may be addressed.

(3) The registered office of an exempted limited partnership shall be the same as the address of a person licensed by the Authority under the Banks and Trust Companies Law (2013 Revision), the Companies Management Law (2003 Revision) or the Mutual Funds Law (2013 Revision) except where the registered office was at a different address immediately prior to the date of commencement of this Law and remains at that address on or after the date of commencement of this Law.

(4) For the purpose of subsection (3) the Authority means the Cayman Islands Monetary Authority established under section 3(1) of the Monetary

2013 Revision	Authority Law (2013 Revision), and includes a person acting under the Authority's authorisation.
Establishment	7. A partnership, limited or otherwise, shall not be be an exempted limited partnership unless registered as such under section 9(1).
Registrar	8. The Registrar of Companies appointed under the Companies Law shall be the Registrar of Exempted Limited Partnerships.
Registration	9. (1) The registration of an exempted limited partnership shall be effected by payment to the Registrar of a registration fee of an amount that the Cabinet shall, from time to time, by regulation prescribe and by filing with the Registrar a statement signed, subject to section 11, by or on behalf of a general partner containing - <ul style="list-style-type: none">(a) the name or dual foreign name and translated name of the exempted limited partnership;(b) the general nature of the business of the exempted limited partnership;(c) the address in the Islands of the registered office of the exempted limited partnership;(d) the term, if any, for which the exempted limited partnership is entered into or, if for unlimited duration, a statement to that effect and the date of its commencement;(e) the full name and address of the general partner and, if more than one of each of them, specifying each of them as a general partner and<ul style="list-style-type: none">(i) in the case of a corporate general partner, there shall be filed with the statement a certificate of incorporation and a certificate of good standing (or similar documents under the laws of the jurisdiction of incorporation) or a certificate of registration and a certificate of good standing under Part IX of the Companies Law;(ii) in the case of a partnership registered under this Law, there shall be filed with the statement a certificate of registration and a certificate of good standing or certified copies thereof; and(iii) in the case of a general partner who is an individual there shall be filed with the statement photographic evidence of his identity and evidence of his residential address in the Islands; and(f) a declaration that the exempted limited partnership shall not undertake business with the public in the Islands other than so far as may be necessary for the carrying on of the business of that exempted limited partnership exterior to the Islands.

(2) The Registrar shall maintain a record of each exempted limited partnership registered under this Law and all the statements filed in relation to the exempted limited partnership, which records and statements shall be kept open to public inspection during all usual business hours.

(3) An exempted limited partnership's dual foreign name shall only be entered on the record if its translated name conforms with the provisions of section 6(1).

(4) If the exempted limited partnership does not conform with section 6(1) then the dual foreign name and the translated name shall not be entered on the record.

(5) The Registrar shall issue a certificate of registration under his hand and seal of office as soon as the registration of the statement pursuant to subsection (1) has been effected.

(6) A limited partner of an exempted limited partnership formed after the 15th July, 1991 shall not have the benefit of limited liability until the date indicated on the certificate referred to in subsection (5) issued by the Registrar, and a partnership registered in accordance with section 40(1) shall obtain the benefit of limited liability under this Law with effect from that date but subject to section 40(2).

(7) A certificate issued under subsection (5) shall be conclusive evidence that compliance has been made with all the requirements of this Law in respect of the formation and registration of an exempted limited partnership but subject to section 40(2).

(8) Notwithstanding subsections (1) and (5), the Registrar may refuse to accept the registration of an exempted limited partnership and refuse to issue a certificate of registration in any case where, in the Registrar's opinion, the name or translated name of the proposed exempted limited partnership is in contravention of section 6(1).

10. (1) Without prejudice to subsection (2), if, during the continuance of an exempted limited partnership, any change is made or occurs in any matter specified in paragraphs (a) to (e) of section 9(1), a statement signed, subject to section 11, by a general partner specifying the nature of the change shall, within sixty days of the change, be filed with the Registrar.

Changes in registered particulars

(2) A statement signed in accordance with subsection (1) in respect of any arrangement or transaction consequent upon which any person will be removed, replaced or admitted as a general partner in any exempted limited partnership, shall, within fifteen days of the arrangement or transaction, be filed with the Registrar and, until the statement is so filed, the arrangement or transaction shall, for the purposes of this Law and the partnership agreement, not be effective to remove, replace or admit that person as a general partner of the exempt limited

partnership and with respect to a replacement or admitted general partner the documentation required by subsection 9(1)(e)(i), (ii) or (iii) of this Law shall be provided as the case may require.

(3) Save with the written consent of any person thereby affected, no arrangement or transaction shall take effect to the extent that it seeks to relieve or discharge a general partner from the obligations of a general partner with regard to any debt or obligation of the exempted limited partnership to a person incurred before the arrangement or transaction takes effect.

(4) If default is made in compliance with this section, each general partner in default shall incur a penalty of two hundred dollars for each day that the default continues which penalty shall be a debt due to the Registrar and the general partner shall indemnify any person who thereby suffers any loss.

(5) The name or translated name of an exempted limited partnership shall not be changed so as to contravene section 6(1) and the Registrar may refuse to accept a statement under subsection (1) which, in the Registrar's opinion, seeks to effect such a change.

Failure to file statement

11. If a person required by section 9(1), section 10(1) or (2) or section 36, or by the partnership agreement to execute and file a statement or notice fails to do so, any other partner, and any assignee of a partnership interest who is or may be affected by the failure or refusal may petition the court to direct a person the court sees fit to sign the statement and file the same on behalf of the person in default.

Copies of certificates

12. (1) Any person may require a certified copy of the certificate of registration, a certificate of good standing or a copy of or extract from any registered statement filed in relation to the exempted limited partnership to be certified as a true copy by the Registrar on payment of a fee the Cabinet may by regulation prescribe.

(2) A certificate of registration, a certificate of good standing or a copy of or extract from a registered statement filed with the Registrar issued under this Law, if certified by the Registrar to be a true copy, shall be received in evidence in all legal proceedings.

Express fees

13. (1) The Registrar, on receipt of -

- (a) an application for registration under section 9: or
- (b) an application for any certificate, other than a certificate under section 9(5), which the Registrar is authorised to provide under this Law,

which is accompanied by an express fee of an amount specified in subsection (2), shall complete the transaction for which the application has been made by -

- (i) the end of the working day, where the application and all fees are received by 12 noon; or
- (ii) 12 noon on the following working day, where the application and all fees are received after 12 noon.

(2) The express fee referred to in subsection (1) is -

- (a) four hundred dollars for an application referred to in paragraph (a) of subsection (1); and
- (b) one hundred dollars for an application referred to in paragraph (b) of subsection (1).

14. (1) A limited partner shall not take part in the conduct of the business of an exempted limited partnership in its capacity as a limited partner. Modification of general law

(2) All letters, contracts, deeds, instruments or documents whatsoever shall be entered into by or on behalf of the general partner (or any agent or delegate of the general partner) on behalf of the exempted limited partnership.

15. Where an exempted limited partnership has more than one general partner and this Law gives an authority, consent or power but not an obligation or liability, to the general partner, the partnership agreement may specify which general partner is entitled to exercise that authority, consent or power to the exclusion of any other general partner. Agreement may specify delegation of authority

16. (1) Any rights or property of every description of the exempted limited partnership, including all choses in action and any right to make capital calls and receive the proceeds thereof that is conveyed to or vested in or held on behalf of any one or more of the general partners or which is conveyed into or vested in the name of the exempted limited partnership shall be held or deemed to be held by the general partner and if more than one then by the general partners jointly, upon trust as an asset of the exempted limited partnership in accordance with the terms of the partnership agreement. Property

(2) Any debt or obligation incurred by a general partner in the conduct of the business of an exempted limited partnership shall be a debt or obligation of the exempted limited partnership.

(3) The assets of an exempted limited partnership, or any class of assets, may be the subject of a floating charge, whether or not the partners of the exempted limited partnership, or any of them, are companies, overseas companies or bodies corporate.

17. (1) On the admission or substitution of any general partner or general partners, in this subsection referred to as an “incoming general partner”, in accordance with the terms of the partnership agreement and this Law, all rights or property of every description of the exempted limited partnership, including all choses in action and any right to make capital calls and receive the proceeds Rights, property and proceeds to vest in incoming partner

thereof, held or deemed to be held by the general partner or general partners in accordance with the foregoing subsection, in this subsection referred to as the “existing general partners”, shall vest without the requirement for further formalities in the incoming general partner and any continuing existing general partners and shall be held by it or them in accordance with this Law.

(2) On the withdrawal of a general partner in accordance with the terms of the partnership agreement and this Law -

- (a) all rights or property of every description of the exempted limited partnership, including all choses in action and any right to make capital calls and receive the proceeds thereof, shall vest without the requirement for further actions or formalities in the remaining general partner or general partners and shall be held by it or them in accordance with this Law; and
- (b) subject to section 10(3), the remaining general partner or general partners shall be liable for and the property of the exempted limited partnership held by them in accordance with this Law shall be subject to all mortgages, charges or security interests and all contracts, obligations, claims, debts and liabilities of the exempted limited partnership.

Transactions with the exempted limited partnership

18. Subject to any express or implied term of the partnership agreement to the contrary and to the duty imposed upon a general partner by section 19(1), a partner may lend money to, borrow from and transact other business with the exempted limited partnership so that an asset, debt or obligation of the exempted limited partnership shall thereby be created and with or without interest or security as the general partner shall determine, and shall have the same rights and obligations with respect thereto as a person who is not a partner, but the obligations of the exempted limited partnership to repay a debt to a general partner shall, at all times, be subordinated to the claims of secured and unsecured creditors of the exempted limited partnership.

General partner to act in good faith

19. (1) A general partner shall act at all times in good faith and, subject to any express provisions of the partnership agreement to the contrary, in the interests of the exempted limited partnership.

(2) Subject to any express provisions of the partnership agreement to the contrary, a limited partner of an exempted limited partnership in that capacity does not owe any fiduciary duty in exercising any of its rights or authorities or otherwise in performing any of its obligations under the partnership agreement to the exempted limited partnership or any other partner.

Liability of limited partner

20. (1) If a limited partner takes part in the conduct of the business of an exempted limited partnership in its dealings with persons who are not partners, that limited partner shall be liable, in the event of the insolvency of the exempted limited partnership, for all debts and obligations of that exempted limited

partnership incurred during the period that he participates in the conduct of the business as though he were, for that period, a general partner, but he shall be liable only to a person who transacts business with the exempted limited partnership during the period with actual knowledge of his participation and who then reasonably believed the limited partner to be a general partner.

(2) A limited partner does not take part in the conduct of the business of an exempted limited partnership within the meaning of this section by -

- (a) holding an office or interest in, or having a contractual relationship with, a general partner or being a contractor for or an agent or employee of the exempted limited partnership or of a general partner or acting as a director, officer or shareholder of a corporate general partner;
- (b) consulting with and advising a general partner or consenting or withholding consent to any action proposed, in the manner contemplated by the partnership agreement, with respect to the business of the exempted limited partnership;
- (c) investigating, reviewing, approving or being advised as to the accounts or business affairs of the exempted limited partnership or exercising any right conferred by this Law;
- (d) acting as surety or guarantor for the exempted limited partnership either generally or in respect of specific obligations;
- (e) approving or disapproving an amendment to the partnership agreement;
- (f) calling, requesting, attending or participating in any meeting of the partners;
- (g) taking any action that results in the winding up or the dissolution of the exempted limited partnership;
- (h) taking any action required or permitted by the partnership agreement or by law to bring, pursue, settle or terminate any action or proceedings brought pursuant to section 33(2);
- (i) appointing a person to serve on any board or committee of the exempted limited partnership, a general partner or a limited partner or removing a person therefrom;
- (j) serving on any board or committee of the exempted limited partnership, a general partner, the limited partners or the partners, or by appointing, electing or otherwise participating in the choice of a representative or any other person to serve on any board or committee, or by acting as a member of any board or committee either directly or by or through any representative or other person, including giving advice or consenting, or refusing to consent, to any action proposed by the general partner on behalf of the exempted limited partnership and exercising any powers or authorities or performing any obligations as a member of that

- board or committee in the manner contemplated by the partnership agreement;
- (k) serving on the board of directors or a committee of, consulting with or advising or being an officer, director, shareholder, partner, member, manager, trustee, agent or employee of, or by being a fiduciary or contractor for, any person in which the exempted limited partnership has an interest or any person providing management, consultation, custody or other services or other products for, to or on behalf of, or otherwise having a business or other relationship with, the exempted limited partnership or a general partner of the exempted limited partnership; or
 - (l) voting as a limited partner on -
 - (i) the winding up and dissolution of the exempted limited partnership;
 - (ii) the purchase, sale, exchange, lease, mortgage, pledge or other acquisition or transfer of any asset by or of the exempted limited partnership;
 - (iii) the incurrence or renewal of indebtedness by the exempted limited partnership;
 - (iv) a change in the nature of the business of the exempted limited partnership;
 - (v) the admission, removal or withdrawal of a general or limited partner and the continuation of business of the exempted limited partnership thereafter; or
 - (vi) transactions in which one or more of the general partners have an actual or potential conflict of interest with one or more of the limited partners.

(3) Subsection (2) shall not import any implication that the possession or exercise of any other power by a limited partner will necessarily constitute the taking part by that limited partner in the business of the exempted limited partnership.

Accounts

21. (1) A general partner shall keep or cause to be kept proper books of account including, where applicable, material underlying documentation including contracts and invoices, with respect to -
- (a) all sums of money received and expended by the exempted limited partnership and matters in respect of which the receipt of expenditure takes place;
 - (b) all sales and purchases of goods by the exempted limited partnership; and
 - (c) the assets and liabilities of the exempted limited partnership.

(2) For the purposes of subsection (1), proper books of account shall not be deemed to be kept if there are not kept such books as are necessary to give a true and fair view of the business and financial condition of the exempted limited partnership and to explain its transactions.

(3) Where the general partner keeps the books of account described in subsection (1) at any place other than at the registered office of the exempted limited partnership or at any other place within the Islands, the general partner shall, upon service of an order or notice by the Tax Information Authority pursuant to the Tax Information Authority Law (2013 Revision), make available, in electronic form or any other medium, at its registered office copies of its books of account, or any part or parts thereof, as are specified in the order or notice.

2013 Revision

(4) A general partner shall cause all books of account required to be kept under subsection (1) to be retained for a minimum period of five years from the date on which they are prepared.

(5) A person who, being a general partner, knowingly and wilfully contravenes subsection (1) or (4) shall be subject to a penalty of five thousand dollars.

(6) A person who, being a general partner, defaults in complying with an order or notice under subsection (3) without reasonable excuse, shall incur a penalty of five thousand dollars and a further penalty of one hundred dollars for every day during which the non-compliance continues.

22. Subject to any express or implied term of the partnership agreement, each limited partner may demand and shall receive from a general partner true and full information regarding the state of the business and financial condition of the exempted limited partnership.

Information regarding condition of partnership

23. Any difference arising as to matters connected with the business of the exempted limited partnership shall be decided by the general partner, and, if more than one, by a majority of the general partners as is provided in the partnership agreement.

Differences decided by general partner

24. (1) Where a partnership agreement contains provisions for the establishment and regulation of any boards or committees of an exempted limited partnership, its partners or any class or category of those partners, or representatives of any of the partners, including -

Establishment, regulation of boards, committees

- (a) the establishment and constitution of boards or committees;
- (b) the manner and terms of appointment and removal of the members of boards or committees;
- (c) the powers, rights, authorities, obligations and duties of the members of boards or committees;
- (d) the regulation of the proceedings of boards or committees; and

- (e) the rights of the members and former members of boards or committees to exculpation or to be indemnified out of the assets of the exempted limited partnership,

then, subject to the express provisions of the partnership agreement, any person duly appointed to be a member of any board or committee in accordance with those provisions shall be deemed to have notice of and shall have the benefit of those provisions which shall not be unenforceable by any person in his own right by reason only that the person is not a party to the partnership agreement.

(2) Subject to any express provisions of the partnership agreement to the contrary, a member of any board or committee referred to in subsection (1) does not owe any fiduciary duty in exercising any of its rights or authorities, or otherwise in performing any of its obligations, as a member of the board or committee to the exempted limited partnership or any partner.

Failure to perform

25. (1) If a partnership agreement provides that where a partner fails to perform any of its other obligations under, or otherwise breaches the provisions of, the partnership agreement that partner may be subject to or suffer remedies for, or consequences of, the failure or breach specified in the partnership agreement or otherwise applicable under any law and those remedies or consequences shall not be unenforceable solely on the basis that they are penal in nature.

(2) The remedies or consequences under subsection (1) may include but are not limited to any one or more of the following -

- (a) reducing, eliminating or forfeiting the defaulting partner's partnership interest in the exempted limited partnership or any rights of the defaulting partner under the partnership agreement;
- (b) subordinating the defaulting partner's partnership interest to the interests of non-defaulting partners;
- (c) effecting a forced sale or forfeiture of the defaulting partner's partnership interest;
- (d) arranging for the lending by other partners or other persons to the defaulting partner of the amount necessary to meet the defaulting partner's commitment;
- (e) providing for the fixing of the value of the defaulting partner's partnership interest by appraisal or by formula and the redemption or sale of the defaulting partner's partnership interest at that value; or
- (f) exercising any other remedy or consequence specified in the partnership agreement or available under any applicable laws.

(3) Subject to the general partner's duty under section 19(1), a general partner shall not be liable for its decision to impose or for imposing any remedies or consequences upon any partner, or for its decision not to do so and references

in this subsection to a partnership interest shall for the avoidance of doubt also be construed as including any part thereof.

26. A person who has executed the partnership agreement of an exempted limited partnership or who is named or otherwise identified, including as a class, in the partnership agreement shall not be deemed to be or otherwise construed as a partner of the exempted limited partnership if - Agreement as to benefits

- (a) that person has executed the partnership agreement solely in order to take the benefit of a provision of, or assume an obligation under, the partnership agreement otherwise than as a partner; or
- (b) where, on a proper construction of the partnership agreement, the parties did not intend the person to be a partner of the exempted limited partnership.

27. (1) Any partnership agreement, any agreement pursuant to which any person agrees to make any commitment or contribution to an exempted limited partnership as a partner and any agreement, contract, deed, instrument including any instrument under seal or document entered into by or on behalf of the general partner for itself in the case of the partnership agreement or otherwise on behalf of the exempted limited partnership is executed validly by the parties thereto where it is executed in any manner contemplated by the parties thereto, including, without limitation - Execution considered valid

- (a) where the complete agreement, contract, deed, instrument or document is executed; or
- (b) where any signature or execution page to the agreement, contract, deed, instrument or document is executed, whether or not the agreement, contract, deed, instrument or document is at the time in its final form, and which is attached by, or on behalf of, the relevant party to, or otherwise with the relevant party's express or implied authority to, the agreement, contract, deed, instrument or document,

if the agreement, contract, deed, instrument or document is executed in conformity with this Law or any other Law of the Islands applicable to execution of the agreement, contract, deed, instrument or document.

(2) Subsection (1) shall apply to agreements, contracts, deeds, instruments including instruments under seal or other documents regardless of whether they were made before, on or after the commencement of this subsection and no agreement, contract, deed, instrument, including instruments under seal, or other document made before the commencement of this subsection shall be invalid if it satisfies the requirements of subsection (1).

Power of attorney
1996 Revision
2011 Revision

28. (1) For the purposes of the Powers of Attorney Law (1996 Revision) and section 8 of the Property (Miscellaneous Provisions) Law (2011 Revision) where a partnership agreement purports to create or grant a power of attorney, including an irrevocable power of attorney, that power shall be deemed validly to have been executed as a deed and if required duly witnessed on execution of the partnership agreement by or on behalf of the donor of the power or on adherence thereto by the donor of the power pursuant to Section 32 without demonstration or satisfaction of any further formalities regarding its execution.

(2) Subsection (1) applies equally to every partnership agreement entered into prior to as well as after the commencement of this Law.

Register of limited
partnership interests

29. (1) Subject to subsection (2) the general partner shall maintain or cause to be maintained in the country or territory that the general partner may determine a register of limited partners which shall contain the name and address of each person who is a limited partner of the exempted limited partnership, the date on which a person became a limited partner and the date on which a person ceased to be a limited partner, and the register shall be updated within twenty-one days of the date of any change in the particulars therein.

(2) The general partner shall maintain or cause to be maintained at the registered office of the exempted limited partnership a record of the address at which the register of limited partners is maintained, which record shall be updated within twenty-one days of the date of any change in the particulars therein.

(3) The register of limited partners and the record of the address at which the register of limited partners is maintained shall be open to inspection during all usual business hours in the place where the register is maintained by -

- (a) subject to any express or implied term of the partnership agreement, all partners; and
- (b) any other person with the consent of the general partner.

(4) The register of limited partners shall be *prima facie* evidence of the matters which are directed by this Law to be inserted therein.

(5) Where the register of limited partners is kept at a place other than the registered office of the exempted limited partnership, the general partner shall make available at the registered office, in electronic form or any other medium, the register of limited partners upon service of an order or notice by the Tax Information Authority pursuant to the Tax Information Authority Law (2013 Revision).

2013 Revision

(6) A person who, being a general partner, defaults in complying with subsection (1) or (2), commit an offence and is liable on summary conviction to a fine of ten thousand dollars for each day that the default continues and shall indemnify any person who thereby suffers any loss.

(7) A person who, being a general partner, defaults in complying with an order or notice under subsection (5) without reasonable excuse, shall incur a penalty of five hundred dollars and a further penalty of one hundred dollars for every day during which that non-compliance continues.

30. (1) The general partner shall maintain or cause to be maintained in any country or territory a record of the amount and date of the contribution or contributions of each limited partner and the amount and date of any payment representing a return of the whole or any part of the contribution of any limited partner, which record shall be updated within twenty-one days of the date of any change in the particulars therein.

Maintenance of records

(2) Subsections (4), (5), (6) and (7) of section 29 shall apply to the records required to be maintained pursuant to this section.

(3) The records maintained pursuant to this section shall be open to inspection during all usual business hours in the place where the records are maintained by any person with the consent of the general partner.

31. (1) The general partner shall maintain or cause to be maintained at the registered office, a register of security interests in which shall be registered each security interest in relation to which a valid notice has been served in accordance with section 32(9).

Registration of security interests

(2) The register of security interests under subsection (1) shall contain the identity of the grantor and grantee, the partnership interest or part thereof subject to the security interest and the date on which notice of the security interest was validly served in accordance with section 32(9).

(3) The register described in subsection (1) may be inspected by any person during all usual business hours.

(4) Any security interest over the whole or any part of a limited partnership interest shall have priority according to the time that the written notice is validly served at the registered office of the exempted limited partnership in accordance with section 32(9).

(5) If default is made by a general partner in the maintenance of the register described in subsection (1), each general partner in default shall incur a penalty of twenty-five dollars for each day that the default continues.

32. (1) A partnership interest is transferable in whole or in part in accordance with the provisions of the partnership agreement and this section.

Transfer of partnership interests

(2) Subject to the partnership agreement, a person may become a partner of an exempted limited partnership either by executing and delivering the partnership agreement or any supplement thereto or counterpart thereof together with the general partner, by acceding to the partnership agreement in accordance

with its terms or upon the transfer of all or part of a partnership interest in accordance with this section, each of which is for this section referred to as an “admission”, and in each case without the consent of the limited partners.

(3) Where the requirements for or conditions to an admission contained in the partnership agreement have been complied with in accordance with their terms or, to the extent permitted by the partnership agreement, waived, any person, however admitted, shall without the requirement for any further actions or formalities, be deemed to have adhered to and agreed to be bound by the terms and conditions of the partnership agreement and shall have the rights and be subject to the obligations contained in the partnership agreement and this Law as if the person and all existing partners had together duly executed and delivered the partnership agreement.

(4) The provisions of subsection (3) shall apply to every transfer or purported transfer of a partnership interest in whole or in part and each admission of a person as a partner of an exempted limited partnership prior to, as well as after, the commencement of this Law.

2011 Revision

(5) Section 6 of the Property (Miscellaneous Provisions) Law (2011 Revision) shall not apply to partnership interests.

(6) Subject to the partnership agreement, no limited partner may -

- (a) transfer; or
- (b) grant any security interest in

the whole or any part of his limited partnership interest except with the written consent of the general partner given prior to, or simultaneously with, the transfer or grant.

(7) Subject to the partnership agreement and this Law, a general partner may transfer or grant a security interest in the whole or any part of his general partnership interest with the written consent of any other general partner given prior to, or simultaneously with, the transfer or grant.

(8) Subject to the partnership agreement -

- (a) the transferee of a general partnership interest or part thereof shall be admitted as a general partner in place of and subject to section 10(2) to the exclusion of, or in addition to, as the case may be, the transferor in respect of the general partnership interest or part thereof transferred but -
 - (i) the transferee shall not be liable for any obligation of the exempted limited partnership incurred before he is so admitted unless otherwise agreed in writing by the transferor and the transferee; and

- (ii) the transferor shall remain liable for any obligation of the exempted limited partnership incurred before the transferor ceased to be a general partner unless otherwise agreed in writing by the transferor, the transferee and the person to whom the obligation is owed; and
- (b) the transferee of a limited partnership interest or part thereof shall be admitted as a limited partner, wholly or partly, as the case may be, in place of and to the exclusion of the transferor in respect of the limited partnership interest or part thereof transferred but, unless otherwise agreed in writing by the transferor, the transferee and the general partner, the transferee shall not assume any liability of the transferor pursuant to section 20(1) or section 34(1) and no transfer shall relieve the transferor of any liability under those subsections.

(9) Written notice of the grant of a security interest over the whole or any part of a limited partnership interest shall be given by the grantor or the grantee to the exempted limited partnership at its registered office.

(10) A notice under subsection (9) is not validly given unless it specifies the agreement pursuant to which the security interest is granted including the date thereof and the parties thereto, the identity of the grantor and grantee of the security interest, and the partnership interest or part thereof that is subject to that security interest.

(11) Nothing in this section shall prevent a partner from assigning or otherwise disposing of, whether absolutely or by way of security in any manner permitted by law, any right, debt or other chose in action arising under a partnership agreement but no assignment or other disposition may, subject to the partnership agreement, be made without the consent of the general partner or, in the case of an assignment or disposition by a general partner, the consent of any other general partner given prior to, or simultaneously with, the assignment or disposition.

(12) A partnership agreement may provide that, as against any other partner, any assignment or other disposition by a partner of any right, debt or other chose in action arising under a partnership agreement shall confer economic rights only and for the purposes of this section “economic rights” are -

- (a) any rights to make and enforce capital calls, to receive the proceeds thereof and to enforce payment of, and receive any sums payable to the partner including the rights on the winding up and dissolution of the exempted limited partnership;
- (b) the right to receive a share of profits of the exempted limited partnership or a share of the property on its winding up and dissolution;

- (c) the right to an account for the purpose of ascertaining the amount or share of any of the foregoing; and
- (d) any other rights that are expressly stated in the partnership agreement to be assignable.

(13) Any consent of a general partner required by this section may, subject to any express provision of the partnership agreement to the contrary, be withheld in the general partner's sole discretion.

(14) Any notice of any assignment or other disposition referred to in subsection (11) that may be required or permitted to be given to any one or more of the other general partners of an exempted limited partnership shall, notwithstanding any other rule of law or equity, be deemed to have been so given if given to the exempted limited partnership.

Proceedings

33. (1) Subject to subsection (3), legal proceedings by or against an exempted limited partnership may be instituted by or against any one or more of the general partners only, and a limited partner shall not be a party to or named in the proceedings.

(2) If the court considers it just and equitable any person or a general partner shall have the right to join in or otherwise institute proceedings against any one or more of the limited partners who may be liable under section 20(1) or to enforce the return of the contribution, if any, required by section 34(1).

(3) A limited partner may bring an action on behalf of an exempted limited partnership if any one or more of the general partners with authority to do so have, without cause, failed or refused to institute proceedings.

(4) If any action taken pursuant to subsection (3) is successful, in whole or in part, as a result of a judgment, compromise or settlement of any action, the court may award any limited partner bringing any action reasonable expenses, including attorney's fees, from any recovery in any action or from an exempted limited partnership.

Return of contributions

34. (1) If a limited partner receives a payment representing a return of any part of his contribution or is released from any outstanding obligation in respect of his commitment and at the time that the payment was made or the release effected-

- (a) the exempted limited partnership is insolvent including where the payment or release causes the insolvency; and
- (b) the limited partner has actual knowledge of the insolvency of the exempted limited partnership,

then for a period of six months commencing on the date of that payment or release but not thereafter, the limited partner shall be liable to the exempted limited partnership for the amount of the payment or the due performance of the released obligation in respect of his commitment in each case to the extent that the repayment or performance of the released obligation is necessary to discharge a debt or obligation of the exempted limited partnership incurred during the period that the contribution or commitment represented an asset of the exempted limited partnership.

(2) Any amount required to be repaid pursuant to this section shall, unless the partnership agreement specifies otherwise, bear simple interest at the rate of ten per cent per annum, calculated on a daily basis.

(3) The partnership agreement may specify -

- (a) that no interest shall apply;
- (b) that a different rate of interest, including a compound rate shall apply; or
- (c) a different basis for calculating interest payable.

(4) Where an exempted limited partnership is voluntarily wound up and dissolved under section 36(1) the period of six months referred to in subsection (1) shall be calculated from the earliest of -

- (a) the time of the passing of a resolution for winding up;
- (b) the time or the occurrence of the event specified in the partnership agreement requiring that it be wound up and dissolved; or
- (c) the insolvency of the exempted limited partnership.

35. Subject to any express or implied term of the partnership agreement to the contrary -

Manner in which partnership may not be dissolved

- (a) an exempted limited partnership shall not be dissolved nor the partnership agreement terminated by -
 - (i) changes in, additions to or substitutions of any one or more of the partners;
 - (ii) the transfer of the whole or part of the partnership interest of a limited partner;
 - (iii) the death, bankruptcy, dissolution, removal, withdrawal or winding up of a limited partner or a partner's withdrawal or redemption of, or repurchase by the partnership of, any partnership interest;
 - (iv) the incapacity of a limited partner;
 - (v) any one or more of the limited partners granting a mortgage, charge or other form of security interest over the whole or part of his partnership interest;

- (vi) the sale, exchange, lease, mortgage, pledge or other transfer of any of the assets of the exempted limited partnership; or
 - (vii) a de-registration of the exempted limited partnership pursuant to section 41 or 43; and
- (b) a limited partner shall not be entitled to wind up and dissolve the partnership by notice.

Dissolution

36. (1) An exempted limited partnership shall be wound up in accordance with the provisions of the partnership agreement -

- (a) at the time or upon the occurrence of any event specified in the partnership agreement; or
- (b) unless otherwise specified in the partnership agreement, upon the passing of a resolution of all the general partners and a two-thirds majority of limited partners.

(2) Upon the completion of the winding up of an exempted limited partnership, the general partner or other person appointed as liquidator in accordance with the provisions of section (12) shall file a notice of dissolution with the Registrar and subject to section 37, an exempted limited partnership shall not be dissolved by an act of the partners or otherwise until a notice of dissolution signed by a general partner or liquidator has been filed with the Registrar.

(3) Except to the extent that the provisions are not consistent with this Law, and in the event of any inconsistencies, this Law shall prevail, and subject to any express provisions of this Law to the contrary, the provisions of Part V of the Companies Law and the Companies Winding Up Rules 2008 shall apply to the winding up and dissolution of an exempted limited partnership and for this purpose -

- (a) references in Part V to a company shall include references to an exempted limited partnership;
- (b) the limited partners shall be treated as if they were shareholders of a company and references to contributories in Part V shall be construed accordingly, except that the application of the provisions shall not cause a limited partner to be subject to any greater liability than he would otherwise bear under this Law, but for the application of this paragraph;
- (c) references in Part V to a director or officer of a company shall include references to the general partner of an exempted limited partnership;
- (d) except for sections 123, excluding subsection (1)(b) and (c), 140, 145, and 146 of the Companies Law, Part V shall not apply to a voluntary dissolution and winding up under subsection (1);

- (e) in the case of a voluntary dissolution and winding-up of an exempted limited partnership under subsection (1) where the partnership was registered under section 9 prior to 11th May 2009, the necessary time period for compliance with the requirements of section 123 (1) of the Companies Law shall be at least twenty-eight days prior to the final distribution of the assets of the exempted limited partnership to partners rather than within twenty-eight days of the commencement of its voluntary winding-up;
- (f) the Insolvency Rules Committee established pursuant to the Companies Law shall have the power to make rules and prescribe forms for the purpose of giving effect to this section or its interpretation; and
- (g) on application by a partner or a creditor, the court may make orders and give directions for the winding up and dissolution of an exempted limited partnership as may be just and equitable.

(4) Notwithstanding that any order has been made pursuant to subsection (3)(g) or that the winding up of an exempted limited partnership has commenced, a creditor who has security over the whole or part of the assets of the exempted limited partnership is entitled to enforce his security without the leave of the court and without reference to the general partner or any liquidator appointed to wind up the exempted limited partnership.

(5) Where a liquidator sells assets on behalf of a secured creditor of an exempted limited partnership, he is entitled to deduct from the proceeds of sale a reasonable sum by way of remuneration.

(6) Where an exempted limited partnership is being wound up and a liquidator is appointed, the Registrar shall be notified of -

- (a) the appointment;
- (b) the date of the appointment; and
- (c) the name and business address of the liquidator.

(7) The general partner or its legal representative shall promptly serve notice on all limited partners informing the limited partners of -

- (a) the death;
- (b) the commencement of liquidation, bankruptcy or dissolution proceedings; or
- (c) the withdrawal, removal or making of a winding up or dissolution order,

in relation to the sole or last remaining qualifying general partner and in this section each event is referred to an “event of withdrawal”.

(8) If default is made in compliance with this section, each general partner or its legal representative, in default shall incur a penalty of twenty-five dollars for each day that the default continues, which penalty shall be a debt due to the Registrar.

(9) Unless the partnership agreement provides otherwise, if a new qualifying general partner is not elected within ninety days after the service of notice of an event of withdrawal in accordance with subsection (7), in this section referred to as “the automatic wind up date”, the exempted limited partnership shall be wound up in accordance with the partnership agreement or the orders or directions the court may make or give in accordance with subsection (3)(g).

(10) In the event that an exempted limited partnership is required to be wound up in accordance with the provisions of subsection (9) then the date of commencement of winding up shall be -

- (a) for the purposes of section 34, the date of the occurrence of the event of withdrawal; and
- (b) for all other purposes, the date falling ninety days after the service of notice of an event of withdrawal.

(11) If a majority of limited partners specified in the partnership agreement as being entitled to vote to elect a new general partner in accordance with the terms of the partnership agreement elects one or more new qualifying general partners by the automatic winding up date -

- (a) the exempted limited partnership shall not be required to be wound up and dissolved; and
- (b) the business of the exempted limited partnership may be resumed and continued as provided for in the partnership agreement or any subsequent agreement.

(12) Following the commencement of the winding up of an exempted limited partnership its affairs shall be wound up by the general partner or other person appointed pursuant to the partnership agreement unless the court otherwise orders on the application of any partner or creditor of the exempted limited partnership pursuant to section (3)(g).

Registrar may strike off register

37. (1) Where the Registrar has reasonable cause to believe that an exempted limited partnership is not carrying on business or is not in operation, the Registrar may strike the exempted limited partnership off the register and the exempted limited partnership shall thereupon be dissolved.

(2) A request on behalf of the general partner to strike the exempted limited partnership off the register shall be accompanied by a fee in the amount prescribed by the Cabinet by regulation.

(3) Where an exempted limited partnership is being wound up, and the Registrar has reasonable cause to believe either that no liquidator is acting, or that the affairs of the exempted limited partnership are fully wound up, the Registrar may strike the exempted limited partnership off the register and the exempted limited partnership shall thereupon be dissolved without the need for a notice of dissolution to be filed pursuant to section 36(2).

(4) The Registrar shall immediately publish a notice in the Gazette to the effect that the exempted limited partnership in question has been struck off the register, the date on which it has been struck off and the reason therefor.

(5) A general partner, limited partner or creditor who objects to an exempted limited partnership being struck off the register pursuant to this section, on the grounds that the exempted limited partnership was at the time it was struck off the register carrying on business, in operation or otherwise, may make an application to the court for the name of the exempted limited partnership to be restored to the register.

(6) An application under subsection (5) shall be made -

- (a) within two years of the date upon which the name of the exempted limited partnership was struck off the register; or
- (b) within a period that the Cabinet may by order allow but which shall not exceed ten years of the date upon which the name of the exempted limited partnership was struck off the register.

(7) The court, if satisfied that the exempted limited partnership was, at the time that it was struck off of the register, carrying on business, in operation or otherwise, may order that the name of the exempted limited partnership be restored to the register upon -

- (a) payment by the applicant of a reinstatement fee;
- (b) payment by the applicant of any other accrued outstanding fees; and
- (c) any other terms and conditions which the court considers just.

(8) The reinstatement fee referred to in subsection (7) shall be the same as the fee paid by the exempted limited partnership upon initial registration.

(9) Where an order is made under subsection (7) the exempted limited partnership is deemed to have continued in existence as if it had not been struck off.

(10) The court may, in addition or subsequent to, an order made under subsection (7), by order give directions and make provision for, as far as possible, placing the exempted limited partnership and all other persons affected from the name of the exempted limited partnership being struck off the register, in the

same position as if the name of the exempted limited partnership had not been struck off the register.

(11) The striking off the register of any exempted limited partnership under this Law shall not affect the liability, if any, of any general partner or limited partner of the exempted limited partnership, and the liability shall continue and may be enforced as if the exempted limited partnership had at all times continued to be in existence.

(12) An act performed or thing done by the Registrar under this section shall not attract any liability.

Tax undertaking

38. (1) The Cabinet may, on application by a general partner, give an undertaking in respect of any exempted limited partnership that a law which is hereafter enacted in the Islands imposing any tax to be levied on profits or income or gains or appreciations shall not apply to the exempted limited partnership or to any partner thereof in respect of the operations or assets of the exempted limited partnership or the partnership interest of a partner therein.

(2) Any undertaking given under subsection (1) may provide, in addition, that the aforesaid taxes and any tax in the nature of estate duty or inheritance tax shall not be payable in respect of the obligations of the exempted limited partnership or the interests of the partners therein.

(3) Any undertaking as aforesaid may be for a period not exceeding fifty years from the date of the approval of the application and may be in the form determined by the Cabinet shall determine.

Annual return

39. (1) An exempted limited partnership shall, in January in every year, file with the Registrar a return signed by or on behalf of a general partner certifying that the exempted limited partnership has, during the prior calendar year, complied with section 10(1) and that there has been no breach of the declaration given in accordance with paragraph (f) of section 9(1) and pay to the Registrar an annual fee of the amount that the Cabinet shall, from time to time, by regulation prescribe.

(2) The annual fee payable and the return due to be filed under subsection (1) shall be tendered at the same time.

(3) An exempted limited partnership which fails to comply with subsection (1) shall -

- (a) where the annual fee is paid or the return is filed between 1st April and 30th June, incur a penalty of 33.33% of the annual fee;
- (b) where the annual fee and penalties are paid or the return is filed between 1st July and 30th September, incur a penalty 66.67% of the annual fee; and

- (c) where the annual fee and penalties are paid or the return is filed between 1st October and 31st December, incur a penalty 100% of the annual fee.

(4) A penalty specified in subsection (2) shall be a debt due to the Registrar.

40. (1) Any partnership registered under the Limited Partnership Law (Revised) prior to its repeal or sections 45 to 54 and 56 to 57 of the Partnership Law or any Law amending or replacing the same shall not be affected by this Law but shall continue to be governed by that law. Re-registration

(2) A partnership described in subsection (1) and any partnership established under the laws of a jurisdiction other than the Islands, in this section referred to as a “registered partnership”, may, at any time, upon -

- (a) effecting the amendments to the partnership agreement as shall be necessary to comply with this Law, if any;
- (b) paying a fee of the amount that the Cabinet may by regulation prescribe; and
- (c) filing the statement required by section 9(1),

be registered under this Law and, with effect from the date indicated on the certificate of registration issued by the Registrar pursuant to section 9(5), shall be governed exclusively thereafter as an exempted limited partnership in accordance with this Law.

(3) With effect from the date indicated on the certificate of registration described in subsection (2), the exempted limited partnership and the partnership interests of the parties therein and their rights and liabilities, as against any person who is not a partner, shall cease to be governed by the repealed Limited Partnership Law (Revised), or sections 45 to 54 and 56 to 57 of the Partnership Law or the laws of any other jurisdiction, as the case may be, save in respect of any act or omission occurring before that date which shall continue to be governed by the law of the other jurisdiction.

(4) Without prejudice to the foregoing generality such registration shall not operate to -

- (a) create a new legal entity;
- (b) affect the property previously acquired by or on behalf of the exempted limited partnership;
- (c) affect any act or thing done prior to registration or the rights, powers, authorities, functions or obligations of the exempted limited partnership, any partner or any other person prior thereto; or
- (d) render defective any legal proceedings by or against the exempted limited partnership or any partner or any other person,

and any legal proceedings that could have been continued or commenced by or against the exempted limited partnership or any partner or any other person before its registration hereunder may, notwithstanding registration, be continued or commenced after registration and in respect of which the law of the other jurisdiction shall be of application.

(5) With effect from the date indicated on the certificate of registration described in subsection (2), all property of every description, including all choses in action and any right to make capital calls of the registrant partnership shall be the property of the exempted limited partnership to be held in accordance with section 16(1).

De-registration pursuant to partnership agreement

41. A general partner of an exempted limited partnership may at any time terminate the registration of an applicant partnership as an exempted limited partnership, if termination of registration is permitted under the terms of the partnership agreement, by filing a written notice of termination of registration with the Registrar together with written confirmation that the action is authorised by the partnership agreement.

Registration of foreign limited partnerships

42. (1) In this section -

“foreign limited partnership” means a limited partnership or limited liability partnership established in a recognized jurisdiction outside the Islands.

“recognized jurisdiction” is one that is prescribed as such by the Cabinet in regulations made under this Law; and

“relevant authority” means the national, state or local government authority, registry or other body in the recognized jurisdiction that is responsible for forming or establishing the foreign limited partnership.

(2) Subject to subsection (3), a foreign limited partnership may apply to be registered pursuant to this section in order to act as the general partner of an exempted limited partnership.

(3) A foreign limited partnership may be registered by the Registrar upon payment to the Registrar of a registration fee of the amount the Cabinet by regulation, prescribes and by filing with the Registrar certified copies of –

- (a) its certificate of formation in its jurisdiction of establishment or the equivalent document issued by the relevant authority as evidence of its formation; and
- (b) a certificate of good standing issued by the relevant authority.

(4) If the certificate of good standing required under subsection (3)(b) is unavailable from the relevant authority, then the foreign limited partnership is required to file with the Registrar, a declaration signed by a person authorised to

act on behalf of the foreign limited partnership stating that the foreign limited partnership is in good standing with the relevant authority.

(5) Neither certificate of good standing under subsection (3)(b) nor the declaration under subsection (4) shall be dated earlier than one month prior to the date of its delivery to the Registrar, and shall be accompanied by a statement signed by or on behalf of the foreign limited partnership specifying -

- (a) the name, dual foreign name and the translated name, if applicable, of the foreign limited partnership;
- (b) the jurisdiction in which it is established;
- (c) whether the foreign limited partnership is deemed to be a separate legal person under the laws of the jurisdiction in which it is established and, if so, the full name and address of any managing member or other person, if not identified in paragraph (f), who immediately controls or directs the affairs of the foreign limited partnership;
- (d) the address of its registered office in its jurisdiction of formation or establishment;
- (e) the names and addresses of some one or more than one person resident in the Islands authorized to accept on its behalf service of process and any notices required to be served on it; and
- (f) the full name and address of any general partners of the foreign limited partnership, if applicable.

(6) A foreign limited partnership shall, in January of each year, pay to the revenues of the Islands an annual fee in the amount and in the manner the Cabinet by regulation, prescribes.

(7) A foreign limited partnership who defaults in paying the annual fee specified in subsection (6) shall incur a penalty of -

- (a) 33.33% of the annual fee specified in subsection (6) if the fee and penalty are paid between the 1st April and the 30th June;
- (b) 66.67% of the annual fee specified in subsection (6) if the fee and penalty are paid between the 1st July and the 30th September; and
- (c) 100% of the annual fee specified in subsection (6) if the fee and penalty are paid between the 1st October and the 31st December.

(8) A penalty specified in subsection (7) is a debt due to the Registrar.

(9) Upon compliance with subsections (3), (4) and (5) the Registrar shall issue a certificate of registration under his hand and seal of office to the foreign limited partnership.

(10) A certificate of registration of a foreign limited partnership issued under subsection (9) is conclusive evidence that compliance has been made with all requirements of this Law in respect of registration.

(11) If any change is made in any details contained in the statement filed under subsection (5), a statement signed by or on behalf of the foreign limited partnership specifying the nature of the change shall, within sixty days of the change, be filed with the Registrar.

(12) If default is made in compliance with subsection (11), each foreign limited partnership shall incur a penalty of two hundred dollars for each day that the default continues which shall be a debt due to the Registrar and the foreign partnership shall indemnify any person who thereby suffers any loss.

(13) Any process or notice required to be served on a foreign limited partnership is sufficiently served if addressed to any person whose name has been delivered to the Registrar under subsection (5) and left at or sent by post to the address which has been so delivered.

(14) A document may be served on the foreign limited partnership by leaving it at or sending it by post to any place of business established by the foreign limited partnership in the Islands.

(15) An instrument executed by or on behalf of a foreign limited partnership outside the Islands is, and is to be treated as, a deed or instrument under seal -

- (a) if it is -
 - (i) sealed; or
 - (ii) expressed to be, or is expressed to be executed as, or otherwise makes clear on its face it is intended to be, a deed; and
- (b) if it is executed in conformity with any requirement imposed by -
 - (i) the laws of the jurisdiction in which the foreign limited partnership was established; and
 - (ii) its partnership agreement or equivalent governing document.

(16) An instrument executed in accordance with subsection (15) meets any requirement of any law that the instrument is, and is to be treated as, a deed or instrument executed under seal.

(17) The execution of an instrument in accordance with subsection (15)(a) and the fact that it was executed in accordance with subsection (15)(b) may be proved by the affidavit or solemn declaration of a witness to the execution of the instrument sworn or made before a notary public or any other person qualified to administer oaths in any jurisdiction.

(18) If any foreign limited partnership ceases to be a general partner of an exempted limited partnership it shall forthwith notify the Registrar and from the date on which notice is given, the obligation of the foreign limited partnership to deliver any document to the Registrar ceases.

(19) Notwithstanding subsection (18) if the Registrar is satisfied by any other means that a foreign limited partnership has ceased to be a general partner of an exempted limited partnership the Registrar may close the file of the foreign limited partnership and thereupon the obligation of the foreign limited partnership to deliver any document to the Registrar ceases.

(20) A general partner of a foreign limited partnership shall not be deemed to have established a place of business in the Islands or commenced carrying on business in the Islands pursuant to Part IX of the Companies Law by virtue solely of so acting.

43. (1) A general partner on behalf of an exempted limited partnership which proposes to be registered by way of continuation as a partnership, body corporate or any other form of entity under the laws of any jurisdiction outside the Islands, in this section referred to as an “applicant”, may apply to the Registrar for the exempted limited partnership, in this section referred to as the “applicant partnership”, to be de-registered in the Islands.

De-registration for
continuation in another
jurisdiction

(2) The Registrar shall de-register an applicant partnership if -

- (a) the applicant proposes to register the applicant partnership by way of continuation in a jurisdiction which permits or does not prohibit the transfer of the applicant partnership in the manner provided in this section referred to as a “relevant jurisdiction”;
- (b) the applicant has paid to the Registrar a fee equal to three times the annual fee that would have been payable pursuant to section 39(1) in the January immediately preceding the application for de-registration;
- (c) the applicant has filed with the Registrar notice of any -
 - (i) proposed change in the name or dual name;
 - (ii) change in the applicant partnership; and
 - (iii) change in its proposed registered office or agent for service of process in the relevant jurisdiction;
- (d) no petition or other similar proceeding has been filed and remains outstanding or order made or resolution adopted to wind up, dissolve or liquidate the applicant partnership in any jurisdiction;
- (e) no receiver, trustee or administrator or other similar person has been appointed in any jurisdiction and is acting in respect of the applicant partnership, its affairs or its property or any part thereof;

- (f) no scheme, order, compromise or other similar arrangement has been entered into or made whereby the rights of creditors of the applicant partnership are and continue to be suspended or restricted;
- (g) the applicant partnership is not insolvent;
- (h) an application for de-registration is bona fide and not intended to defraud creditors or the limited partners of the applicant partnership;
- (i) the applicant has delivered to the Registrar an undertaking signed by an authorized signatory of the applicant that notice of the transfer has been or will be given within twenty-one days to the secured creditors of the applicant partnership;
- (j) any consent or approval to the transfer required by any contract or undertaking entered into or given by the applicant partnership has been obtained, released or waived, as the case may be;

- (k) the transfer is permitted by and has been approved in accordance with the partnership agreement of the applicant partnership;
- (l) the laws of the relevant jurisdiction with respect to transfer have been or will be complied with;
- (m) the applicant partnership, if licensed under the Banks and Trust Companies Law (2013 Revision), the Companies Management Law (2013 Revision), the Insurance Law, 2010, the Mutual Funds Law (2013 Revision) or the Securities Investment Business Law (2011 Revision), has obtained consent of the Cayman Islands Monetary Authority to the transfer;
- (n) the applicant partnership will upon registration under the laws of the relevant jurisdiction continue as a partnership, body corporate or other form of entity;
- (o) the applicant partnership is in good standing with the registrar and all outstanding fees due to be paid in relation to the applicant partnership to the Registrar are paid; and
- (p) the Registrar is not aware of any other reason why it would be against the public interest to de-register the applicant partnership.

(3) Paragraphs (d), (e), (f), (g), (h), (j), (k), (l) and (n) of subsection (2) may be satisfied by filing with the Registrar a voluntary declaration or affidavit of an authorised signatory of the applicant to the effect that, having made due enquiry, the Registrar is of the opinion that the requirements of those paragraphs have been met.

(4) A declaration or affidavit under subsection (3) shall include a statement of the assets and liabilities of the applicant partnership.

2013 Revision
2003 Revision
Law 32 of 2010
2013 Revision
2011 Revision

(5) The statement under subsection (4) shall be based on an assessment of the assets and liabilities of the applicant partnership as at the date of the declaration or affidavit or the date as close as is practicable to the foregoing date.

(6) An authorized signatory of the applicant, who makes a declaration or affidavit under subsection (3) without reasonable grounds commits an offence and is liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for five years.

(7) The Registrar may, upon request from an applicant, where the Registrar is satisfied that the applicant has complied with subsection (2), de-register the applicant partnership.

(8) Section 41 does not apply to an applicant partnership under this section.

44. (1) Upon the termination of registration of an applicant partnership under section 41, the Registrar shall issue a certificate under his hand and seal of office that the registration of the applicant partnership as an exempted limited partnership has been terminated and specifying the date of termination; and shall enter in the register of exempted limited partnerships the date of termination of the registration of the applicant partnership under section 41.

Certificate of de-registration

(2) Upon de-registration of an applicant partnership under section 43, the Registrar shall issue a certificate under his hand and seal of office that the applicant partnership has satisfied the de-registration under section 43 and been de-registered as an exempted limited partnership and specifying the date of de-registration and shall enter in the register of exempted limited partnerships the date of de-registration of the applicant partnership under section 43.

(3) From the commencement of the date of termination of registration under section 41 or de-registration under section 43 the applicant partnership shall cease to be an exempted limited partnership for all purposes under this Law and in the case of de-registration under section 43 shall continue as a partnership, body corporate or other entity under the laws of the relevant jurisdiction.

(4) From the commencement of the date of termination of registration of an applicant partnership under section 41 the applicant partnership becomes a general partnership under the Partnership Law (2013 Revision) and in the case of an applicant partnership de-registered under section 43, the applicant partnership de-registered shall not by virtue of that de-registration alone cease to be a partnership, body corporate or other entity under the laws of the relevant jurisdiction.

2013 Revision

(5) This section shall not operate, in relation to an applicant de-registered under section 43 and continued as a partnership under the laws of the relevant jurisdiction -

- (a) to create a new legal entity unless otherwise provided by the laws of the relevant jurisdiction;
- (b) to prejudice or affect the identity or continuity of the applicant partnership as previously constituted unless otherwise provided by the laws of the relevant jurisdiction;
- (c) to affect the property of any applicant partnership;
- (d) to affect any appointment made, resolution passed or any other act or thing done in relation to the applicant partnership pursuant to a power conferred by the partnership agreement of the applicant partnership or by the laws of the Islands;
- (e) except to the extent provided by or pursuant to section 43 and this section, to affect the rights, powers, authorities, functions and liabilities or obligations of the applicant partnership or any other person unless otherwise provided by the laws of the relevant jurisdiction; or
- (f) to render defective any legal proceedings by or against the applicant partnership, and any legal proceedings that could have been continued or commenced by or against the applicant partnership before its de-registration under this Law may, notwithstanding the de-registration, be continued or commenced by or against the applicant partnership after de-registration.

Notice of de-registration

45. The Registrar shall give notice in the Gazette of the termination of registration of an applicant partnership under section 41 or the de-registration of an applicant partnership under section 43 and, in the case of de-registration under section 43, the jurisdiction under the laws of which the applicant partnership has been registered by way of continuation and the name of the applicant partnership, if changed.

Certificate of good standing

46. (1) The Registrar may on application made by an exempted limited partnership issue a certificate of good standing to an exempted limited partnership that is in good standing in accordance with subsection (2).

(2) A certificate of good standing is evidence of the fact that the exempted limited partnership is in good standing on the date that the certificate of good standing is issued.

(3) An exempted limited partnership is deemed to be in good standing if all fees and penalties under this Law have been paid and the Registrar has no knowledge that the exempted limited partnership is in default under this Law.

Electronic business

47. Nothing in this Law shall prohibit an exempted limited partnership from offering, by electronic means, and subsequently supplying, real or personal property, services or information from a place of business in the Islands or through an internet service provider or other electronic service provider located in the Islands.

48. The Cabinet may, make Regulations in respect of exempted limited partnerships prescribing - Regulations

- (a) the duties to be performed by the Registrar for the purposes of this Law;
- (b) the forms to be used for the purposes of this Law;
- (c) the fees payable to the Registrar in respect of filings or certifications or otherwise pursuant to this Law; and
- (d) generally, the conduct and regulation of registration under this Law and any matters incidental thereto.

49. (1) Notwithstanding any provision of this Law which prescribes a specific *per diem* penalty in respect of a default of any obligation to make a filing, to serve a notice or to maintain a record set out in this Law the Registrar may, in any case where the aggregate *per diem* penalty has exceeded the amount of one thousand dollars and the Registrar is satisfied that the failure is not due to wilful default, accept payment of a penalty of one thousand dollars in lieu thereof. Recovery of penalties

(2) Without prejudice to the powers exercisable by the Registrar under this Law, all sums that the Registrar is entitled to recover by way of fees or penalties are recoverable either summarily as a civil debt, or as a simple contract debt, in any court of competent jurisdiction.

50. (1) The Exempted Limited Partnership Law (2013 Revision) is repealed.

Repeal of the Exempted
Limited Partnership Law
(2013 Revision) and
savings

(2) The repeal of the Exempted Partnership Law (2013 Revision) shall not affect any exempted limited partnership registered under the repealed Law and a provision in any document referring to the repealed Law or its revision shall, so far as may be necessary for preserving its effect, be construed as referring to the corresponding provision in this Law.

Passed by the Legislative Assembly the day of , 2014.

Speaker.

Clerk of the Legislative Assembly.