

Regulations on Registration and Management of Investment Funds

2015/R-57

Chapter 1 – General Provisions

Title, purpose and effective date

1. (a) These regulations are made in exercise of powers conferred on Capital Market Development Authority by section 60 (a) of the Maldives Securities Act (Law No: 2/2006). This Regulation shall govern the formation, registration, operation and other applicable principles of investment funds in the Maldives.
- (b) This Regulation shall be cited as the “Regulation on Registration and Management of Investment Funds”.
- (c) These regulations shall come to effect from the date it has been published in the Maldives Government Gazette.

Interpretation

2. (a) Terms used in these regulations shall be interpreted as follows.

“Investment fund” shall have the meaning given in section 3 of this regulation.

“Authority” shall mean Capital Market Development Authority formed under Maldives Securities Act (Law no:2/2006)

“Limited Liability Partnership” shall mean limited liability partnership registered under Partnership Act (Law no:13/2011)

“Company” shall mean a company registered under Maldives Companies Act (Law no: 10/96)

“Custodian” shall have the meaning given in the Regulation on Institutions providing Custodial Services (Law no: 2011/ R-36)

“Private investment fund” shall mean an investment fund with less than 51 (fifty one) investors.

“Share” or “Unit” shall mean:

- (1) In the case of an investment fund formed as a PLC the shares evidencing ownership in the company, or
- (2) In the case of an investment fund formed as an LLP, the units of ownership in the Partnership.

“Investors” shall mean unit holders or shareholders in an Investment fund.

“Net Asset Value per share” shall mean the value resulting from dividing the total Net Assets of an investment fund by

the total number of issued shares.

“Fund charter” shall mean:

- (1) Memorandum and Articles of Association of the company; or the Partnership Agreement,
- (2) Any constitutional document(s) governing the formation and management of the Fund.
- (3) Shareholders’ Agreements and
- (4) Documents that govern the investments of the Fund.

“Subscription” shall mean money paid in consideration for a share or a unit of an investment fund.

“Pledge” shall mean assigning or mortgaging a property as a guarantee in respect of a performance of a contract or deed.

“Asset” shall include real estate and all rights associated with it.

“Investment Manager” shall mean the person who reviews, monitors, and proposes and advises on investment decisions relating to the investment fund

“Investment Adviser” shall mean investment advisers licensed under Maldives Securities Act (Law no:2/2006).

(b) All terms and phrases defined in this regulation shall be interpreted in accordance with Maldives Securities Act (Law no:2/2006) and regulations made under the Act.

Chapter 2 – Investment Fund

Definition of an investment fund

3. “Investment Fund” shall mean a company or a partnership, excluding those specified in section 4 of this regulation, organized and/or operated with the sole purpose of collecting subscriptions from participants in the company or partnership, for investing those subscriptions in securities, bank deposits or any other assets, and for providing subscribers with a return on their investment in the form of either dividends, interest, capital gain or any other financial benefit.

Exclusions from the definition

4. The definition of “Investment Fund” shall not include:
 - (a) A holding company formed only for the purpose of owning shares/controlling interests.
 - (b) A licensed securities dealing company.
 - (c) Banks, Insurance companies and leasing companies.
 - (d) Parties primarily engaged in the business of goods and services.
 - (e) General partnerships.

- Registration of Fund*
- 5.** (a) A person making a submission for registration of an investment fund under this regulation, shall be a limited liability partnership registered under the Partnership Act (Law no: 13/2011), or a company registered under Maldives Companies Act (Law no: 10/96).
- (b) A person making a submission for registration of an investment fund, shall submit an application to the Authority, in the form provided in Appendix 1 including the information required in Appendix 1.
- (c) A list of registered investment funds shall be published on Authority's website.
- Issuance of shares or units*
- 6.** A registered investment fund can issue shares or units to the public only if it is a registered public company or a partnership with more than 10 partners.
- Fund Charter*
- 7.** The Charter of an investment fund shall contain –.
- (a) Name, nature and duration of the Fund.
- (b) Structure of Fund.
- (c) Investment objectives, investment principles and procedures for making investment decisions.
- (d) Paid-up capital.
- (e) Investment Fund Manager, and how the investment fund would be managed.
- (f) Information relating to appoint of custodian (if any).
- (g) Contributions to be made or agreed to be made by the Investment adviser (if any).
- (h) Method for calculating the value of shares or units to be sold from the investment fund.
- (i) Manner in which fees and expenses are to be charged to the investment fund by the investment advisor, custodian or any other person.
- (j) The manner in which shares or units of the investment fund can be transferred.
- (k) Provision for distributing profits or dividends to shareholders.
- (l) Manner and periods for disclosure of financials to members of the fund.
- (m) The manner in which the fund charter can be revised.

<i>Determining portfolio requirement</i>	8.	Fund's charter shall contain the types of assets that may be held by the fund and/or the percentage ownership limits.
<i>Shareholder meetings and voting</i>	9.	The procedure for calling up shareholders meeting and quorum requirements shall be governed by Maldives Companies Act (Law no: 10/96) in the case of a company and Partnership Act (Law no: 13/2011) in case of a partnership and the Fund Charter
<i>Investment Adviser and Custodian</i>	10.	<p>(a) Where an investment fund's portfolio exceeds MVR 5,000,000 (five million), fund manager shall be a person licensed by the Authority.</p> <p>(b) The fund's charter shall contain provisions on how the investment decisions shall be made, and the investment manager(s) shall be registered with the Authority.</p> <p>(c) Persons who manage the investments of the fund submitted for registration shall be persons having adequate education and expertise for the purpose.</p> <p>(d) Where a custodian has not been appointed for an investment fund, a report on investments of the fund shall be submitted to the Authority every 6 (six) months.</p>
<i>Duties of Custodian</i>	11.	<p>(a) The custodian during the performance of its duties shall act solely in the interests of investors of the investment fund.</p> <p>(b) Assets of the investment fund shall be kept under the custody and control of the custodian under an agreement made with the investment fund.</p> <p>(c) The custodian shall ensure that the investment fund is managed in accordance with this regulation and the fund charter.</p> <p>(d) The custodian shall act in accordance with the advice of the Investment advisor in respect of the fund's assets, unless such advice is in conflict with this regulation or the provisions of the fund charter.</p> <p>(e) If the investment fund asset include a pledge of property in favor of the fund, the custodian shall fulfil all legal requirements to record or register the pledge in relevant</p> <p>(f) The custodian shall notify the Authority without further delay where the custodian becomes aware of any failure, act or omission of the Investment advisor constituting a breach of any of the provisions of this regulation and, measures taken by it to ensure that the breach is rectified as soon as is reasonably practicable.</p>
<i>Liability of Custodian</i>	12.	The custodian shall be liable to the investors and investment advisor for any loss suffered as a result of breach of the Maldives Securities Act (Law No 2/2006), or the Regulation on Institutions Providing Custodian Services or the Custodial Agreement or a provision of this Regulation by the Custodian

- Disclosure of information*
- 13.** Where the investment fund issues shares to public or where the number of members in an investment fund is 51 (fifty one) or above, disclosures shall be made in accordance with the Regulation on Continuous Disclosure Obligation for Issuers (2011/R-10).
- Public Offer of investment funds shares*
- 14.** (a) A public offer for sale of shares of an investment fund shall only be made after the Fund is registered and approved by the Authority
- (b) The public offer for sale of shares of an investment fund shall be conducted in accordance with the Companies Act where the fund is a company, and Partnership Act in the case of a Partnership and Maldives Securities Act and regulations made under these Acts.
- Subscriptions*
- 15.** (a) Where a custodian has been appointed for an investment fund, payments for subscriptions shall be made to an account of the custodian designated for the purpose.
- (b) Subscribers for shares of the investment fund shall be provided with a receipt of their subscription.
- (c) Shares in the Investment Fund shall be allotted only upon the full payment for those shares.
- (d) Private investment funds shall submit to the Authority details of subscribers shares of the fund, within 3 (three) days from the date of subscription.
- Calculation of Net Assets Value*
- 16.** (a) Investment funds other than private investment funds, shall calculate and publish the Net Assets Value of the Fund.
- (b) Financial statements of private investment funds shall be made available to its members, upon request.
- (c) Publication of the financial statements or arrangements to make available to the members of financial statements shall be made within every 06 (Six) months or during the period specified in the Fund Charter, whichever is the shorter period.
- Prohibited investments*
- 17.** (a) An investment fund shall not invest in securities issued by;
- (1) The following person(s) of an investment fund:
- (a) Adviser
- (b) Persons or members who makes decisions on investments
- (c) Members of the Board of directors
- (d) Auditor
- (e) Any shareholder of the fund that holds 5% or more

of the fund's shares, except for listed securities.

(f) Promoters or advertisers of the fund.

(2) Any person or business holding 5% or more of the shares in any party mentioned in number (1) above.

- Disclosure of conflict of interest* **18.** Where the investment adviser, or an officer of a person who makes an investment proposal has an interest in any propose investment decisions, such interests shall be notified to the party responsible for approval of investment decisions.
- Non-compliance to principles of Investment* **19.** (a) Where an investment fund in breach of section 17 of this regulation, or rules on acquisition or disposal of investments provided in the fund charter extent of non-compliance and steps to be taken for rectification shall be immediately informed to the Authority in writing.
- (b) Non-compliance informed to the Authority in accordance with subsection (a) of this section, shall be rectified within 15 (fifteen) days of notification to the Authority.
- Advertising* **20.** (a) All advertisements issued by or on behalf of an investment fund shall clearly state that the advertisement is made by or on behalf of the fund. The information in an advertisement shall be true, accurate and not misleading and shall be consistent with the information contained in the fund's charter, prospectus, and other governing documents.
- (b) All investment fund advertisements, shall include a statement that the investment fund does not guarantee the attainment of its stated investment objectives.
- Registration fee* **21.** An investment fund shall be registered for a fee of MVR 1,000 (one thousand).
- Breaches* **22.** Where the investment fund is in breach of this Regulation, the Authority shall have the discretion to take the following actions, taking into account the extent and nature of breach:
- (1) Require to rectify the breach.
- (2) Temporary suspension of investment fund registry.
- (3) Cancellation of investment fund registry.

Appendix 1

Information and documents to be submitted for Registration of Investment Fund

A. *Information required*

1. Name of the Investment Fund
2. Type of the Investment Fund
3. Type of legal entity
4. Registration Number and Date of Registration of Company or Partnership
5. Information about the Board of Directors/Managing Partner
6. Objectives of the Fund
7. Investment and diversification policies
8. Type of investment portfolio
9. How investment would be managed and the person managing the investment
10. Proposed capital to be raised by the fund
11. Name, address and registration number of the custodian (if custodian is appointed)

B. *Documents required to be submitted*

1. Registration copy of company or partnership
2. Fund charter
3. Agreement with investment manager
4. Agreement with the custodian (if any)
5. Letter of appointment and letter of acceptance of investment adviser and custodian
6. Prospectus (in case of a public offer)
