

VIRGIN ISLANDS

LIMITED PARTNERSHIP REGULATIONS, 2018

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VIRGIN ISLANDS

STATUTORY INSTRUMENT 2018 NO. 9

**LIMITED PARTNERSHIP ACT, 2017
(No. 24 of 2017)**

Limited Partnership Regulations, 2018

[Gazetted 21st February, 2018]

The Cabinet, in exercise of the powers conferred by section 117 of the Limited Partnership Act, 2017 (No. 24 of 2017) and with the advice of the Financial Services Commission, makes these Regulations:

**PART I
PRELIMINARY**

- 1.** (1) These Regulations may be cited as the Limited Partnership Regulations, 2018. Citation and commencement.
- (2) These Regulations shall be deemed to have come into force on the 11th day of January, 2018.
- 2.** (1) In these Regulations, unless the context otherwise requires Interpretation.
- “Act” means the Limited Partnership Act, 2017; No. 24 of 2017
- “country” includes a territory;
- “disqualified person” has the meaning specified in section 260 (4) of the Insolvency Act, 2003; No. 5 of 2003
- “permitted character” means a character, sign or symbol specified in Schedule 1, and includes a blank space between two other permitted characters; Schedule 1
- “restricted person” has the meaning specified in section 409 of the Insolvency Act, 2003; No. 5 of 2003

“restricted word, phrase or abbreviation” means a word, phrase or abbreviation specified by the Commission as such in a notice issued under section 13 (3) of the Act;

“undischarged bankrupt” means an individual

No. 5 of 2003

(a) against whom a bankruptcy order has been made under the Insolvency Act, 2003 that has not been discharged; or

(b) who has equivalent status under the insolvency legislation of a country other than the Virgin Islands.

Model agreement.

3. The limited partnership agreement set out in Schedule 2 is a model agreement which may be used for the purposes of the Act.

PART II

LIMITED PARTNERSHIP NAMES

General

Requirements for the name of a limited partnership.

4. (1) The name of a limited partnership shall be comprised of no more than one hundred permitted characters.

(2) Where the proposed name for a limited partnership has a meaning in a language other than English, the application to register the limited partnership under that name shall be accompanied by a translation of the name or proposed name that has been certified, in accordance with regulation **17**, by the person who translated the name.

Limited partnership name includes restricted words, phrases or abbreviations.

5. Where the proposed name for a limited partnership is to include a restricted word, phrase or abbreviation, the application shall be accompanied by the written approval of the Commission to use the restricted word, phrase or abbreviation.

Foreign character names

Application for approval and registration of foreign character name.

6. (1) An application to the Registrar for the approval and registration of a foreign character name may be made

(a) together with an application

(i) under section 8 of the Act, to register a limited partnership;

(ii) under section 67 of the Act, to continue a foreign limited partnership under the Act; or

(iii) under section 74 or 78 of the Act, to register a consolidated limited partnership; or

(b) at any time after the registration of a limited partnership.

(2) An application under subregulation (1) shall be accompanied by a statement certified by a person who qualifies in accordance with regulation 17

(a) confirming whether the foreign character name is a translation of, or has a meaning equivalent to, the name or proposed name of the limited partnership; and

(b) specifying the meaning or, where it has more than one possible meaning, the meanings of the foreign character name of the foreign character name.

7. (1) The Registrar shall not approve a foreign character name

Approval of
foreign character
name.

(a) if the foreign character name

(i) is identical to the foreign character name that is registered or has been registered to another limited partnership under the Act; or

(ii) is, subject to subsection (2), so similar to a foreign character name that is registered or has been registered to another limited partnership under the Act that the use of the name would, in the opinion of the Registrar, confuse or mislead;

(b) that does not comply with this Act or the Regulations;

(c) that contains a restricted word, phrase or abbreviation, unless the Commission has given prior written consent to use the word, phrase or abbreviation; or

(d) if, in the opinion of the Registrar

(i) the foreign character name is offensive or objectionable; or

(ii) it would be contrary to public policy or the public interest to register the name.

(2) The Registrar may approve a foreign character name that is similar to the foreign character name of another limited partnership if the other limited partnership has given its consent in writing which is made available to the Registrar.

(3) The Registrar may refuse to approve a foreign character name if

- (a) the Registrar is not satisfied as to the full or true meaning of the name; or
- (b) it is not, for reasons stated by the Registrar, practicable to register the name.

8. On approving a foreign character name, the Registrar shall

- (a) register the foreign character name against the limited partnership in the Register of Limited Partnerships; and
- (b) issue a certificate of registration, continuation or consolidation, or a certificate of the registration of an additional foreign character name, as appropriate, which shall
 - (i) indicate that the limited partnership has a foreign character name in addition to its registered name; and
 - (ii) state both its registered name and the foreign character name.

9. (1) If a limited partnership that has a foreign character name applies to change its foreign character name, it shall file with the application for a change of name, the statement specified in regulation 6 (2).

(2) Where a limited partnership applies to change its foreign character name, regulation 7 applies, with the necessary modifications.

10. (1) A limited partnership that is registered with a foreign character name may apply to the Registrar to deregister its foreign character name.

(2) On an application under subregulation (1), the Registrar may deregister the foreign character name and remove it from the Register.

(3) Where the Registrar deregisters the foreign character name of a limited partnership under subregulation (2)

- (a) the limited partnership shall remove all references to the foreign character name from its limited partnership agreement by filing with the Registrar a notice of amendment of the limited partnership agreement; and

Registration of foreign character name.

Change of name where limited partnership has foreign character name.

Application to de-register foreign character name.

- (b) the Registrar shall, upon receipt of the notice of amendment of the limited partnership agreement under paragraph (a), issue a certificate of deregistration of the foreign character name.

11. (1) The Registrar may issue a notice directing a limited partnership to apply to change its foreign character name on or before the date specified in the notice if the Registrar

Registrar may de-register foreign character name.

- (a) considers that
 - (i) the limited partnership's foreign character name does not comply with the Act or these Regulations;
 - (ii) is a name that, on the date of the notice, he or she would not approve under regulation 7; or
- (b) is not satisfied as to the full or true meaning of the name.

(2) The Registrar shall, in a notice under subregulation (1), specify a date for complying with the directive which is at least 14 days after the date of the notice.

(3) If a limited partnership that has received a notice under subregulation (1) fails to file an application to change its foreign character name to a foreign character name approved by the Registrar on or before the date specified in the notice pursuant to subregulation (2), the Registrar may deregister the foreign character name.

(4) On deregistering a foreign character name under this regulation, the Registrar shall issue a certificate of deregistration of the foreign character name.

(5) Where the Registrar deregisters the foreign character name of a limited partnership under subregulation (3)

- (a) all references to the foreign character name of the limited partnership contained in the limited partnership agreement shall be deemed to be removed; and
- (a) the limited partnership shall be liable to pay any fees associated with the deregistration of the foreign character name, filing a notice of amendment of limited partnership agreement and issuance of a certificate of deregistration as if the limited partnership had applied to change its foreign character name.

PART III

MISCELLANEOUS

Liquidation of Limited Partnership

Individuals eligible to be appointed, or act, as liquidator.

12. (1) For the purposes of section 88 (6) of the Act, an individual is eligible to be appointed and to act as the voluntary liquidator of a limited partnership if the individual is not disqualified from acting as the liquidator of a limited partnership under sub-regulation (2).

(2) The following individuals are disqualified from being appointed, or acting, as the voluntary liquidator of a limited partnership

- (a) a disqualified person or an individual subject to an equivalent disqualification under the laws of a country outside the Virgin Islands;
- (b) a restricted person or an individual subject to an equivalent restriction under the laws of a country outside the Virgin Islands;
- (c) a minor; or
- (d) an undischarged bankrupt.

Notice of appointment of liquidator.

13. A person appointed as the liquidator of a limited partnership under section 88 of the Act shall, before assuming any duty as liquidator, file a notice of appointment and advertise the notice of appointment

- (a) in at least one issue of a newspaper published and circulating in the Virgin Islands; and
- (b) unless the principal place of business of the limited partnership is in the Virgin Islands
 - (i) in at least one issue of a newspaper circulating in the place outside the Virgin Islands in which its place of business, or if it has more than one, its principal place of business, is situated; or
 - (ii) if the limited partnership does not have a place of business, or the liquidator does not know where its place of business is situated, in such manner as the liquidator considers is most likely to come to the attention of any creditors of the limited partnership.

Registrar and Commission

14. The Register of Registered Charges maintained under section 59 of the Act in relation to a limited partnership shall contain the following information in respect of each charge registered

Register of
Registered
Charges.

- (a) the registered number and name of the limited partnership that has created the charge;
- (b) the date and time of registration of the charge;
- (c) if the charge is a charge created by the limited partnership, the date of its creation or, if the charge is a charge existing on property acquired by the limited partnership, the date on which the property was acquired;
- (d) a short description of the liability secured by the charge;
- (e) a short description of the property charged;
- (f) the name and address of the agent or trustee for the security or, if there is no such agent or trustee, the name and address of the chargee;
- (g) the name and address of the holder of the charge;
- (h) details of any prohibition or restriction, if any, contained in the instrument creating the charge on the power of the limited partnership to create any future charge ranking in priority to or equally with the charge;
- (i) the name and address of the person who filed the charge for registration and the person's entitlement to file the charge;
- (j) details of any variation of the charge registered under section 60 of the Act;
- (k) the date and time of registration of any variation of the charge registered under section 60 of the Act;
- (l) the name and address of the person who filed the variation of the charge for registration and the person's entitlement to file the variation;

- (m) where a notice of satisfaction or release is registered under section 61 of the Act, details of the satisfaction of any charge registered under the Act or, where a charge has ceased to affect the property, or any part of the property, of the limited partnership, details of the property that has ceased to be affected by the charge, stating whether this is the whole or part of the limited partnership's property; and
- (n) the date and time of registration of the notice of satisfaction or release registered under section 61 of the Act.

Certificate of good standing.

15. A certificate of good standing issued under section 112 of the Act shall contain a statement

- (a) that, at the date of the certificate, the limited partnership
 - (i) is on the Register of Limited Partnerships; and
 - (ii) has paid all fees and penalties due; and
- (b) as to whether, at the date of the certificate
 - (i) application has been made, but not yet determined, for the registration of the limited partnership as a surviving limited partnership under a merger;
 - (ii) notice of appointment of a liquidator under section 88 of the Act has been filed;
 - (iii) the limited partnership is in liquidation under the Insolvency Act, 2003; or
 - (iv) any proceedings to strike the name of the limited partnership off the Register of Limited Partnerships have been instituted.

Publication of approved forms.

16. For the purposes of section 118 (1) of the Act, the Commission publishes an approved form in the prescribed manner by publishing the form on its Internet site.

General

Certifying a document or statement.

17. (1) This regulation applies where

- (a) a translation into the English language of any document required to be filed, submitted or provided to the Registrar, is required by the Act to be certified as accurate; and

(b) a statement is required to be certified under regulation 6 (2).

(2) The person who made the translation or statement shall certify, or verify, before a person authorised to act as a Notary Public or to administer oaths that

(a) the translation is an accurate translation of the document concerned or the statement is a confirmation of the matters specified in regulation 6 (2); and

(b) he or she has the necessary competence to translate the document into English or confirm the matters specified.

(3) Where a translation or statement is certified or verified or authenticated in a country outside the Virgin Islands, the translation or statement shall be certified or verified or authenticated before a person authorised under the law of the country concerned

(a) to act as a Notary Public, or its equivalent; or

(b) administer oaths, or their equivalent.

(4) The requirements of subregulation (2) or (3) shall be treated as satisfied without the need for any certification or verification before a Notary Public (or its equivalent) or other person qualified to administer oaths if the translation of a document or the statement, as the case may be, is carried out or made by a person who is duly sworn and appointed

(a) by a court in the Virgin Islands or outside the Virgin Islands to translate documents; or

(b) by the Government of the Virgin Islands or the government of a country outside the Virgin Islands to translate documents or verify or authenticate statements.

(5) The person who translates a document or verifies or authenticates a statement by virtue of subregulation (4) shall indicate in writing the court or government by which he or she is appointed.

18. (1) Subject to subregulation (2), a legal practitioner shall not, for the purposes of section 21 (3) (b) of the Act, file a notice of change of registered office or registered agent on behalf of a limited partnership, unless the legal practitioner has first notified the registered agent in writing of the legal practitioner's intention to do so and provided the registered agent with a copy of the resolution or other document that authorises the change of registered office or registered agent.

Restrictions on filings by legal practitioners.

(2) If the limited partnership has been the subject of an agreement between the registered agent and a third party for the collection and provision of customer due diligence information in accordance with the Anti-money Laundering Regulations, 2008 and Anti-money Laundering and Terrorist Financing Code of Practice, 2008, the legal practitioner shall not file a notice for change of registered office or registered agent unless the legal practitioner

- (a) has obtained from the registered agent written confirmation that the registered agent has carried out all the required customer due diligence obligations in respect of the limited partnership pursuant to the Regulations and the Code of Practice and the customer due diligence information is up to date;
- (b) has, where he or she has not received the confirmation referred to in paragraph (a) within 2 days after providing the registered agent with the requisite notification under subregulation (1), carried out the required customer due diligence obligations as mentioned in paragraph (a); or
- (c) has obtained written confirmation from the new registered agent that it has carried out the required customer due diligence obligations under the Regulations and the Code of Practice.

(3) Where a legal practitioner has carried out customer due diligence in respect of the limited partnership in accordance with subregulation (2) (b), he or she shall transfer the customer due diligence information to both the existing registered agent and the new registered agent.

(4) A written confirmation under subregulation (2) (c) shall be submitted to the Registrar at the same time as the filing of the notice for change of registered office or registered agent and the Registrar shall transmit the written confirmation to the Commission.

(5) Where a registered agent receives a notification under subregulation (1) (a), it shall not delay providing, or unreasonably refuse to provide, the written confirmation referred to in subregulation (2) (a).

(6) For purposes of subregulation (5), a claim that the limited partnership whose change of registered office or registered agent is sought to be filed by a legal practitioner

- (a) owes the registered agent outstanding fees, or
- (b) has unsatisfied contractual obligations, whether with the registered agent or otherwise and whether or not pursuant to an agreement,

shall not be reason for any delay or constitute a reasonable claim.

(7) The reference to “customer due diligence” in subregulation (2) shall be construed in accordance with section 19 (1) of the Anti-money Laundering and Terrorist Financing Code of Practice, 2008.

SCHEDULE 1

[Regulation 2 (1)]

PERMITTED CHARACTERS

1. The letters A to Z, in lower and upper case.
2. Subject to regulation 3 (2), the numerals 0 to 9.
3. Any roman numerals.
4. The following punctuation marks:

Full stop	.
Comma	,
Dash	-
Underscore	—
Apostrophe	‘ ’ ’
Brackets	[] () { }
Exclamation mark	!
Question mark	?
Inverted commas	“ ” ”
5. The following symbols:

@ & * / \ < > + = # %
6. The Registrar may, generally or on a case-by-case basis, permit the use of –
 - (a) accents with one or more letters; and
 - (b) symbols that indicate a particular currency.

SCHEDULE 2

[Regulation 3]

MODEL LIMITED PARTNERSHIP AGREEMENT

Preliminary

1. The General Partner and each Limited Partner have formed a limited partnership under the Limited Partnership Act, 2017 under the name specified in the statement referred to in section 8 (2) (a) (i) of the Act.
2. The Limited Partnership shall be governed by the laws of the Virgin Islands and the rights, powers and duties of the General Partner and any limited partner of the Limited Partnership shall be as provided in this Agreement and under the Act.
3. The Partners are bound by these terms, subject to any agreement in this Agreement, as amended from time to time.
4. The first registered agent of the Limited Partnership is the person specified in the statement referred to in section 8 (2) (a) (iii) of the Act.
5. The address of the first registered office of the Limited Partnership is specified in the statement referred to in section 8 (2) (a) (ii) of the Act.
6. Except as otherwise specified in this Agreement, the following terms have the meanings specified for them in this clause:

“Act” means the Limited Partnership Act, 2017 as may from time to time be amended;

“Agreement” means this Limited Partnership Agreement as from time to time amended;

“General Partner” means the Initial General Partner and any person who, from time to time, is admitted to the Limited Partnership as a general partner;

“Limited Partner” means the Initial Limited Partner and any person who, from time to time, is admitted to the Limited Partnership as a limited partner;

“Limited Partnership” means the limited partnership established under this Agreement;

“Partners” means the General Partners and the Limited Partners collectively.

Liability of the Partners

7. In the event that the Limited Partnership is unable to pay its debts or liabilities, the liability of each Limited Partner for the Limited Partnership's liabilities shall be

limited to the amount of its capital contributed or the amount required to be contributed to the Limited Partnership in accordance with this Agreement or as required to be contributed by the Act. The General Partner shall be liable on an unlimited basis for all of the Limited Partnership's debts and liabilities as if a partner in a partnership without limited partners.

Management

8. The General Partner shall undertake and shall have exclusive responsibility for the management, operation and administration of the Limited Partnership and its business and affairs. In fulfilling such obligations, the General Partner may employ independent contractors or agents.
9. The General Partner shall have the power and authority to do all things necessary to carry out the purposes of the Limited Partnership, shall devote as much of its time and attention thereto as shall reasonably be required for the management, operation and administration of the business of the Limited Partnership, shall ensure that all filings and registrations required in relation to the Limited Partnership pursuant to the Act are promptly made and shall operate the Limited Partnership in accordance with these Articles.
10. Subject to section 35 of the Act, a Limited Partner shall take no part in the management, operation and administration of the business and affairs of the Limited Partnership, and shall have no right or authority to act for the Limited Partnership or to take any part in the management, operation and administration of the Limited Partnership or to vote on matters relating to the Limited Partnership other than as provided in the Act or these Articles.
11. A continuing general partner shall have the right to continue the business of the Limited Partnership with partnership property on the death, retirement, bankruptcy or incapacity of a general partner.

Share in Profits

12. Partners shall share in profits and surplus in proportion to their respective contributions.

Voting rights

13. Subject to the Act and Regulations, a resolution of the general or limited partners shall be passed by the votes of general or limited partners representing more than 50% of the total capital contributions made by those general or limited partners who have voted on the resolution.

Admission of Additional Partners

14. The General Partner has the authority to admit Partners to the Limited Partnership.

Amendments to this Agreement

15. This Agreement may be amended for any purpose by the General Partner with the written consent of all the Limited Partners.

Books and Records

16. The General Partner shall keep and maintain or cause to be kept and maintained the registers, books and records required to be maintained by the Act.
17. To the extent that the registers or records are not maintained at the office of the registered agent of the Limited Partnership, the General Partner shall:
 - (a) cause copies of the registers of general partners and limited partners to be maintained at the office of the registered agent of the Limited Partnership;
 - (b) provide the registered agent of the Limited Partnership with a written record of the physical address of the place at which the records and underlying documents are kept; and
 - (c) notify the registered agent of the Limited Partnership of any change to the register of general partners, the register of limited partners or the physical address of the place at which the records and underlying documents are kept within 14 days of such change and, in the case of the registers, provide a copy of the updated register as soon as reasonably practicable.

Term

18. The Limited Partnership shall continue in existence until:
 - (a) such time as the General Partner and all the Limited Partners agree in writing to terminate the Limited Partnership; or
 - (b) the Limited Partnership is terminated in accordance with the Act.

Made by Cabinet this 19th day of February, 2018.

(Sgd.) Sandra Ward,
Cabinet Secretary