

LEGISLATION UPDATE

LIMITED PARTNERSHIPS

New business structure to be launched by the ACRA on 4 May 2009

The Accounting and Corporate Regulatory Authority (the “ACRA”) has announced that it will, on 4 May 2009, launch a new business structure known as the limited partnership (“LP”), pursuant to the Limited Partnerships Act 2008 (the “LPA”).

What is an LP?

An LP is a partnership consisting of one or more general partners and one or more limited partners. General partners are jointly and severally liable for all debts and obligations of the LP and exert management control. Limited partners, as their name suggests, have limited liability but also limited powers. They are not liable for the debts or obligations of the LP beyond the extent of their agreed contributions to the LP. They are also not entitled to take part in the management of the LP.

Note: LPs are not to be confused with limited liability partnerships. A limited liability partnership is a separate legal entity from its partners which itself has limited liability. An LP resembles a conventional partnership, except that the limited partners in an LP have limited liability.

The law relating to LPs

The law relating to partnerships generally also applies to LPs except where it is inconsistent with the express terms of the LPA.

A limited partner is not to take part in the management of a company and does not have power to bind the LP. If he takes part in management, he will be liable for the debts and obligations of the LP as if he were a general partner. The onus is therefore upon the limited partner to ensure that he does not assume any management duties.

Where an LP is set up for investors to invest in a venture as limited partners, these investors would be concerned as to what activities they can carry out without losing their limited liability status. As a guide, a non-exhaustive list of “safe harbour” activities which the limited partner can participate in without being considered to have taken part in management is set out in the First Schedule of the LPA.

A sampling of the permitted activities follows:

- consulting with and advising the limited partnership with respect to the business, affairs or transactions of the limited partnership;
- investigating, reviewing, approving or advising on the accounts or affairs of the limited partnership;
- enforcing the limited partner's rights under the partnership agreement (unless those rights relate to the performance of management functions);
- calling, requesting, attending or participating in a meeting of the partners of the limited partnership; and
- voting on any transaction or proposed transaction of the limited partnership including:
 - (i) the creation, renewal or discharge of an obligation of the limited partnership;
 - (ii) the making of or calling for contributions; and
 - (iii) the making of investments or the making of other determinations in connection with or concerning investments, including investments in any property, either directly or indirectly by the limited partnership.

The LPA also contains specific provisions on how a limited partner may increase or reduce his amount of agreed contribution in the LP. In this respect, the LPA differs from UK law on limited partnerships in that it allows a limited partner to draw out his contribution from the LP, subject to clawback if the withdrawal was done when the LP was insolvent. Under UK law, a limited partner is not allowed to withdraw his capital contribution.

Registration

The LP and its partners must be registered with the ACRA. If an LP or a limited partner is not registered with the ACRA, it or he will be deemed to be a general partnership or general partner respectively. Limited partnerships are to have the words "limited partnership" or the acronym "LP" in their name to give notice of their status to persons who transact with them.

Duties and Tax Treatment

While an LP is not required to file its accounts or have them audited, it is required to keep proper accounting records which will sufficiently explain the transactions and the financial position of the LP.

If all the general partners in an LP are resident outside Singapore, a local manager may have to be appointed to perform the duties of the LP under Part III (registration), Part IV (duties, powers and enforcement) and Part V (other miscellaneous provisions) of the LPA.

The tax treatment of the LP for income tax and goods and services tax purposes would follow the tax treatment of general partnerships. The Third Schedule to the LPA provides for this by making consequential amendments to the Income Tax Act and the Goods and Services Tax Act.

References

Please click on the links below to refer to the relevant documents:

1. [The Limited Partnerships Act 2008](#);
2. [The ACRA's announcement on the launch of limited partnerships](#); and
3. [Table of comparison between limited partnerships and other existing business structures \(from the ACRA website\)](#).

If you have any queries on this update, or wish to discuss how it may potentially affect you or your business, please feel free to contact the corporate and finance lawyers in Drew & Napier LLC (please refer to the Directors' Profiles on our [website](#)), or any of the following lawyers:

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