

CAYMAN ISLANDS



Supplement No. 9 published with Extraordinary
Gazette No. 8 dated 30 April, 2001

**THE MUTUAL FUNDS LAW
(1999 REVISION)**

**THE MUTUAL FUND ADMINISTRATORS LICENCE (APPLICATIONS)
REGULATIONS, 2001**

The Mutual Fund Administrators Licence (Applications) Regulations, 2001

CAYMAN ISLANDS

**THE MUTUAL FUNDS LAW
(1999 REVISION)**

**THE MUTUAL FUND ADMINISTRATORS LICENCE (APPLICATIONS)
REGULATIONS, 2001**

In exercise of the powers conferred by section 36(1) of the Mutual Funds Law (1999 Revision), the Governor makes the following regulations -

1. These regulations may be cited as the Mutual Fund Administrators Licence (Applications) Regulations, 2001. Citation

2. In these regulations - Definitions

“Full Mutual Fund Administrators Licence” means a Mutual Fund Administrators Licence authorising the holder of the Licence to act or carry on business as a mutual fund administrator in respect of an unlimited number of regulated mutual funds;

“principal”, in relation to a company, means -

- (a) a person who, either alone or with an associate -
 - (i) directly or indirectly holds not less than ten percent of the share capital issued by the company;
 - (ii) is entitled to exercise or control the exercise of not less than ten percent of the voting power in general meeting of the company or of any other company of which it is a subsidiary; or
 - (iii) has a holding in the company directly or indirectly which makes it possible to exercise significant influence over the management of the company;
- (b) a director; or
- (c) a person in accordance with whose directions, whether given directly or indirectly, any director of the company, or director of any other company of which the company is a subsidiary, is accustomed to act (but disregarding advice given in a professional capacity);

The Mutual Fund Administrators Licence (Applications) Regulations, 2001

“restricted Mutual Fund Administrators Licence” means a Mutual Fund Administrators Licence that contains the restriction referred to in section 10(2); and

“section” means a section of the Mutual Funds Law (1999 Revision).

Particulars to be
contained in application
(1999 Revision)
Schedule

3. The particulars to be contained in an application for a Mutual Fund Administrators Licence under the Mutual Funds Law (1999 Revision), and the information to accompany the application, are set out in the Schedule of these Regulations.

SCHEDULE

(Regulation 3)

PARTICULARS TO BE CONTAINED IN, AND INFORMATION TO
ACCOMPANY, AN APPLICATION FOR THE GRANT OF A MUTUAL
FUND ADMINISTRATORS LICENCE

1. The name of the mutual fund administrator (in this Schedule referred to as "the applicant") applying for the Mutual Fund Administrators Licence.

2. In the case of an application for a Full Mutual Fund Administrators Licence, the address of the principal office of the applicant.

3. In the case of an application for a restricted Mutual Fund Administrators Licence, the address of the registered office of the applicant.

4. In the case of an application for a Full Mutual Fund Administrators Licence, the names and addresses of the two individuals or the body corporate resident or incorporated in the Islands and authorised under section 11(2)(c) to be the applicant's agent in the Islands.

(2000 Revision)

5. If the applicant is a company to which Part IX of the Companies Law (2000 Revision) applies, the names and addresses of some one or more than one person authorised under section 203(1)(c) of that Law to accept on its behalf service of process and any notices required to be served on it.

6. If the applicant is a company, evidence of its incorporation.

7. A copy of the memorandum and articles of association, Act, statute, charter, partnership agreement or other instrument constituting and defining the

constitution of the applicant verified by a declaration made by one of its directors or partners or by its secretary and-

- (a) in the case of an applicant which is a company incorporated in the Islands, certified under section 27 of the Companies Law (2000 Revision); and
- (b) in the case of an applicant which is incorporated under any law other than the law of the Islands, certified and authenticated under the public seal of the country, city or place under the law of which it is incorporated and, if such instrument is not written in the English language, a certified English translation thereof.

8. If the applicant is a company (whether incorporated in the Islands or outside the Islands) -

- (a) a list certified by its secretary containing the names, addresses and nationalities of its directors and corporate officers;
- (b) a chart showing its relationship to its subsidiaries and affiliates and any holding company;
- (c) a copy of its latest annual accounts and those of its holding company, if any;
- (d) a questionnaire approved by the Authority and completed by each shareholder or beneficial shareholder who is a natural person holding more than ten percent of the applicant's issued share capital or total voting rights;
- (e) the name, address and country of incorporation of any corporate shareholder which holds more than ten percent of the applicant's issued share capital or total voting rights;
- (f) a statement as to the amount of shares held by each shareholder;
- (g) a questionnaire approved by the Authority and completed by the beneficial owner of each corporate shareholder holding more than ten percent of the applicant's issued share capital or total voting rights, or evidence that the shares of the parent company are publicly traded on a stock exchange recognised by the Authority;
- (h) the annual accounts, for the two years immediately preceding the year of application, of each shareholder which is a body corporate holding more than ten percent of the applicant's issued share capital or total voting rights, together with similar accounts for the parent body, if any, of each such body corporate;
- (i) not less than three references acceptable to the Authority, including one character reference for, and one reference verifying the good financial standing of -

- (i) each director, manager and officer of the applicant; and
- (ii) each shareholder and each beneficial shareholder who is a natural person holding more than ten percent of the applicant's issued share capital or total voting rights;

and, for each such director, manager, officer or shareholder, a police or other certificate satisfactory to the Authority that such director, manager, officer or shareholder has not been convicted of a serious crime or any offence involving dishonesty;

- (j) a questionnaire approved by the Authority and completed by all the directors, managers and officers of the applicant who are involved in the administration of mutual funds;
- (k) evidence acceptable to the Authority of the availability to the applicant at all times of adequate professional knowledge of, and experience in, the administration of mutual funds and the names of at least two of its directors actively engaged in the business of the applicant (one of whom shall possess sound professional knowledge of, and experience in, the administration of mutual funds), together with the resumes of any such directors detailing their educational qualifications and work experience;
- (l) the names and addresses of the registered offices of all subsidiary companies of the applicant together with a statement as to how much of the capital of each such company constitutes an asset of the applicant;
- (m) details of the applicant's auditors approved by the Authority under section 19(1), including-
 - (i) the name and address of the auditors;
 - (ii) the partner responsible for the audit, if applicable; and
 - (iii) a letter from the auditors acknowledging their obligations under section 33;
- (n) a statement giving the date for the drawing up of the annual accounts of the applicant;
- (o) a statement describing the history of the applicant (if applicable) and giving the applicant's reasons for wishing to obtain the licence sought;
- (p) details of the current business activities, if any, of the applicant and its proposed activities if the licence applied for is granted, including -
 - (i) the business aims of the applicant, including details of the type of mutual fund administration it will undertake (for example, whether the applicant will provide an operator for

the mutual fund and whether the applicant will manage the mutual fund);

- (ii) a statement as to its customer base, including the type of mutual fund to be administered by the applicant (for example, funds listed on a stock exchange);
 - (iii) in the case of an application for a restricted Mutual Fund Administrators Licence, the names and addresses of the mutual fund to be administered by the applicant, together with a copy of the offering memorandum and evidence acceptable to the Authority that the proposed mutual fund to be administered complies with the Authority's policy for related mutual funds; and
 - (iv) a copy of its most recent balance sheet and details of its fee earnings, if any; and
- (q) requests for any exemption from the requirements of the Law sought by the applicant.

9. If the applicant is a company incorporated outside the Islands-

- (a) confirmation in writing, under the hand of the presiding officer of the applicant and the presiding officer of its parent company, if any, that they concur in the making of the application; and
- (b) a statement in writing in a form acceptable to the Authority accepting legal responsibility for the obligations and liabilities of the applicant executed by and binding on the parent company, if any, of the applicant.

10. In the case of an application for a Full Mutual Fund Administrators Licence, evidence that the applicant has a net worth of at least four hundred thousand dollars or the equivalent in another currency.

11. The jurisdiction where the applicant intends to carry on the business of mutual fund administration (that is, where it will have a staffed office), if other than the Islands, indicating whether the administration will be carried out through a branch office, subsidiary or associate.

12. Details of any authorisation currently held by the applicant or its parent company (if any) to carry on investment, insurance or banking activities in countries outside the Islands, together with the name and address of the authority responsible for the authorisation.

13. If the applicant or its parent company is not currently subject to regulation in the Islands or in any other country, details as to whether -

- (a) the applicant, its parent company or principals have ever been refused or had revoked any authorisation to carry on investment, banking or other financial business in any country;
- (b) the applicant, its parent company or principals have ever been refused or had revoked membership of any association of dealers in securities or of any stock exchange;
- (c) the applicant, its parent company or principals have, at any time during the ten years prior to the date of the application, had a receiver, administrative receiver or administrator appointed, or failed to satisfy a debt adjudged due or a debt in respect of which a decree has been passed against it or entered into a scheme of arrangement or composition of its debts with its creditors;
- (d) a petition for the compulsory winding up of the applicant or its parent company has been served at any time during the ten years prior to the date of the application;
- (e) the bankers of the applicant or its parent company have changed during the three years prior to the date of the application and, if so, details of the change, including the reason for the change;
- (f) the legal advisers of the applicant or its parent company have changed during the three years prior to the date of application and, if so, details of the change, including the reason for the change;
- (g) the auditors of the applicant or its parent company have changed during the three years prior to the date of application and, if so, details of the change, including the reason for the change;
- (h) the applicant, its parent company or principals have ever been convicted of any offence involving fraud or other dishonesty or of an offence under any law relating to financial services, insolvency, consumer credit or consumer protection; and
- (i) the applicant, its parent company or principals have ever been the subject of regulatory, administrative or other civil or criminal proceeding or investigation under the law of any country.

14. An undertaking that the applicant will not carry on mutual fund administrators business for mutual funds other than those whose names and addresses are specified pursuant to section 10(2).

15. An undertaking by the applicant to disclose to the Authority any changes material to the application while it is being considered by the Governor in Council.

The Mutual Fund Administrators Licence (Applications) Regulations, 2001

Made in Council the 12th day of April, 2001.

Carmena H. Watler

Clerk of Executive Council.