Changes to Legislation: as of 3 November 2026, this Act is up to date with all changes known to be in force.

Number 24 *of* 1994

INVESTMENT LIMITED PARTNERSHIPS ACT 1994

REVISED

Updated to 7 December 2022

This Revised Act is an administrative consolidation of the *Investment Limited Partnerships Act 1994*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Water Services (Amendment) Act 2022* (39/2022), enacted 7 December 2022, and all statutory instruments up to and including the *Industrial and Provident Societies Act 1893 (Section 14A(1)) (Covid-19) (No. 2) Order 2022* (S.I. No. 649 of 2022), made 7 December 2022, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

Number 24 *of* 1994

INVESTMENT LIMITED PARTNERSHIPS ACT 1994

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Number 24 *of* 1994

INVESTMENT LIMITED PARTNERSHIPS ACT 1994

REVISED

Updated to 7 December 2022

AN ACT TO PROVIDE IN THE PUBLIC INTEREST AND IN THE INTERESTS OF INVESTORS FOR THE ESTABLISHMENT, AUTHORISATION AND REGULATION OF INVESTMENT LIMITED PARTNERSHIPS AND FOR RELATED MATTERS. [12*th July*, 1994]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

Preliminary

Short title.

1.—This Act may be cited as the Investment Limited Partnerships Act, 1994.

Commencement.

2.—This Act shall come into operation on such day as the Minister shall fix by order.

Interpretation.

3.—In this Act unless the context otherwise requires—

"the Act of 1890" means the Partnership Act, 1890;

F1**[**"Act of 2010" means the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010;

"alternative foreign name" shall be construed in accordance with *section 8(4B)*;**]**

F2**[**"the Bank" means the F3**[**Central Bank of Ireland**]**;**]**

F4**[**"beneficial owner", in relation to an investment limited partnership, means any individual who—

(*a*) ultimately is entitled to or controls, whether the entitlement or control is direct or indirect, more than a 25 per cent share of the capital or profits of the partnership or more than 25 per cent of the voting rights in the partnership, or

(*b*) otherwise controls the partnership;

"beneficial ownership register" shall be construed in accordance with *section 46(1)*;

"central register" shall be construed in accordance with *section 50(1)*;

"competent authority" means a competent authority as that expression, by virtue of sections 60 and 61 of the Act of 2010, is to be construed for the purposes of Part 4 of that Act;

"designated person" has the meaning assigned to it by section 25 of the Act of 2010;**]**

“the court” means the High Court;

F5**[**"depositary" means a person maintaining a place of business in the State, appointed pursuant to the partnership agreement, eligible to act as depositary in accordance with *section 8* and discharging its functions in accordance with *section 5(1)(c)*;**]**

“general partner” means a person who has been admitted to an investment limited partnership as a general partner in accordance with the partnership agreement, and who shall be personally liable for the debts and obligations of the investment limited partnership;

F6**[**"Higher Executive Officer" means the position of Higher Executive Officer, or a position equivalent to it, in the public body concerned;**]**

“investment limited partnership” means a partnership which holds a certificate of authorisation issued in accordance with this Act;

F7**[**"limited partner" means a person who has been admitted to an investment limited partnership as a limited partner (or as a category of such a partner) in accordance with the partnership agreement and who shall, as provided for in that agreement and at such time or times as are specified therein, contribute or undertake to contribute a stated amount to the capital of the partnership and as provided for in *section 20(1)(c)*, but subject to the exceptions in *sections 6*, *12* and *38(4)*, shall not be liable for the debts or obligations of the investment limited partnership beyond the amount so contributed or undertaken;**]**

F8**[**"Member State" means a Member State of the European Union and, where relevant, includes a contracting party to the Agreement on the European Economic Area signed at Oporto on 2 May 1992 (as adjusted by the Protocol signed at Brussels on 17 March 1993);**]**

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

“partnership agreement” means any valid written agreement of the partners governed by the law of the State and subject to the F9**[**...**]** jurisdiction of the courts of the State, as to the affairs of an investment limited partnership and the conduct of its business as may be amended, supplemented or restated from time to time;

F10**[**"PPS number", in relation to an individual, means the individual's Personal Public Service Number within the meaning of section 262 of the Social Welfare Consolidation Act 2005;

"presenter" shall be construed in accordance with *section 53(1)*;

"Principal Officer" means the position of Principal Officer, or a position equivalent to it, in the public body concerned;

"senior managing official" includes a director and a chief executive officer;**]**

“property” means real or personal property of whatever kind (including securities) and wherever located;

F11**[**"the Minister" means the Minister for Finance.**]**

Savings and disapplications of laws and enactments.

4.—(1) Subject to the provisions of this Act, the Act of 1890, and the rules of equity and of common law applicable to partnerships, except so far as they are inconsistent with the express provisions of the last-mentioned Act, shall apply to investment limited partnerships.

(2) The provisions of the Limited Partnerships Act, 1907, shall not apply to investment limited partnerships.

(3) In the case of any investment limited partnership with two or more general partners, provisions of this Act requiring or authorising a thing to be done by or to a general partner shall be satisfied, except where the context otherwise indicates, by it being done by or to any one general partner.

(4) For the avoidance of doubt, the provisions of section 376 of the Companies Act, 1963 shall not apply to an investment limited partnership.

PART II

Constitution

Constitution of investment limited partnership.

5.—(1) An investment limited partnership may be formed by two or more persons and shall—

(*a*) have as its principal business, to be expressed in the partnership agreement establishing the investment limited partnership, the investment of its funds in property;

(*b*) consist of one or more general partners and one or more limited partners;

(*c*) F12**[**have appointed a F13**[**depositary**]** being a person maintaining a place of business in the State, and eligible to act as F13**[**depositary**]** in accordance with *section 8* of this Act**]**, in whom the assets of the investment limited partnership shall be entrusted for safe keeping, who is charged with verifying that the business of an investment limited partnership is conducted in accordance with the partnership agreement and with such powers or duties of a F13**[**depositary**]** with regard to the investment limited partnership as are specified by the Bank and in *section 24* F14**[**and in the European Union (Alternative Investment Fund Managers) Regulations 2013 where relevant**]**;

(*d*) have specified in the partnership agreement, the conditions under which there may be effected, and the procedure to be followed with respect to, the replacement of a general partner or a F13**[**depositary**]** to the partnership with another general partner or F13**[**depositary**]** including a replacement by the Bank under *section 30* and the admission of additional general partners or F15**[**depositaries**]** and shall contain provision to ensure the protection of limited partners in the event of any such replacement;

(*e*) comply with such further and other requirements made by the Bank from time to time under *section 7* hereof;

(*f*) hold a certificate of authorisation issued in accordance with *Part III* of this Act.

(2) A body corporate with or without limited liability may be a general partner or a limited partner and a partnership may be a limited partner.

(3) The contribution made by a limited partner to the capital of the investment limited partnership may be satisfied in cash or other property provided that in the case of a non-cash contribution, the value of the relevant property shall, for the purposes of satisfying the obligation to contribute to the capital of the investment limited partnership, be the F16**[**fair and appropriate value of the property**]** at the time of transfer of the property to the investment limited partnership.

(4) For the avoidance of doubt, the contribution made by a limited partner to the capital of the investment limited partnership shall not be satisfied by the provision of any services or loans by the limited partner.

F17**[**(5) An investment limited partnership may be established as an umbrella fund, that is to say as an investment limited partnership which is divided into a number of sub-funds (within the meaning of the Schedule).

(6) The provisions of the Schedule shall have effect for the purposes of *subsection (5)*.**]**

Modification of general law and liability of limited partner for debts of investment limited partnership.

6.—(1) A limited partner shall not take part in the conduct of the business of the investment limited partnership and in particular shall not have power to contract on behalf of the investment limited partnership and all letters, contracts, deeds, instruments and documents whatsoever shall be entered into by the general partner on behalf of the investment limited partnership.

(2) If a limited partner takes part in the conduct of the business of the investment 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 investment limited partnership for debts of the investment limited partnership incurred during the period that he so participates in the conduct of the business as though he were for such period a general partner.

(3) A limited partner shall be liable by virtue of *subsection (2)* only in respect of debts or obligations incurred by the investment limited partnership in favour of a person who at the time the debt or obligation was so incurred reasonably believed, based upon the conduct of the limited partner, that the limited partner was a general partner and whether or not such debts or obligations have since been assigned or otherwise transferred to another person.

(4) A limited partner does not take part in the conduct of the business of an investment limited partnership within the meaning of this Act solely by doing any one or more of the following, irrespective of the frequency of such acts:

(*a*) being a contractor for, or being an agent or employee of, the investment limited partnership or a general partner or acting as a director, officer or shareholder of a general partner which is a body corporate;

(*b*) consulting with and advising a general partner with respect to the business of the investment limited partnership;

(*c*) investigating, reviewing, or being advised as to the accounts or business affairs of the investment limited partnership or exercising any right conferred by this Act;

(*d*) acting as surety or guarantor or providing any other form of security for the investment limited partnership either generally or in respect of specific obligations;

(*e*) voting as a limited partner on one or more of the following matters:

(i) the dissolution and winding up of the investment limited partnership;

(ii) the purchase, sale, exchange, lease, mortgage, pledge, or other acquisition or transfer of any asset or assets by or on behalf of the investment limited partnership;

(iii) the incurring or renewal of any indebtedness of the investment limited partnership;

(iv) a change in the objectives or policies of the investment limited partnership;

(v) the admission, removal or withdrawal of a general or limited partner or F18**[**depositary**]** and the continuation of the business of the investment limited partnership thereafter;

(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 F19**[**limited partners;**]**

F20**[**(vii) a decision to approve an alteration in the partnership agreement;**]**

F21**[**(*f*) any of the following:

(i) serving on any board or committee (such as an advisory committee) of the investment limited partnership, or established by, or as provided for in the partnership agreement in respect of, a general partner, the limited partners or the partners generally;

(ii) appointing, electing or otherwise participating in the choice of a representative or any other person to serve on any such board or committee;

(iii) acting as a member of any such board or committee either directly or by or through any representative or other person, including giving advice in respect of, or consenting or refusing to consent to, any action proposed by the general partner on behalf of the investment limited partnership and exercising any powers or authorities or performing any obligations as a member of any such board or committee in the manner contemplated by the partnership agreement.**]**

F22**[**(5) Without prejudice to the generality of the provision made by *subsection (4)* in relation to acts, on the part of a limited partner, that do not constitute the limited partner taking part in the conduct of the business of an investment limited partnership, neither—

(*a*) the reference in *section 38(4)* to any limited partner holding himself or herself out as conducting or purporting to conduct the business of an investment limited partnership, nor

(*b*) the reference in *section 39* to a limited partner purporting to take part in the conduct of the business of an investment limited partnership,

shall be construed as including a reference to the limited partner, in and of itself, holding himself or herself as doing, or purporting to do, one or more of the acts specified in *subsection (4)* (irrespective of the frequency with which that holding out, or that purported doing of the act or acts concerned, occurs).**]**

(5) *Subsection (4)* 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 such limited partner in the business of the investment limited partnership.

PART III

Formation

Conditions for authorisation.

7.—(1) Notwithstanding any other powers which may be available to the Bank under any other enactment, order or regulation, the Bank may impose such conditions for the authorisation of an investment limited partnership as it considers appropriate and prudent for the purposes of the orderly and proper regulation of investment limited partnerships.

(2) (*a*) Conditions imposed under *subsection (1)* may be imposed generally, or by reference to particular investment limited partnerships, or by reference to any other matter the Bank considers appropriate and prudent for the purposes of the orderly and proper regulation of the business of investment limited partnerships.

(*b*) The Bank may impose such conditions on general partners or F23**[**depositaries**]** or investment limited partnerships as it considers appropriate and prudent for the purposes of the orderly and proper regulation of general partners, F23**[**depositaries**]** or investment limited partnerships or all of these.

(3) (*a*) The power to impose conditions referred to in *subsection (1)* shall include a power to impose such further conditions from time to time as the Bank considers appropriate and prudent for the purposes of the orderly and proper regulation of the business of investment limited partnerships.

(*b*) The Bank may amend or revoke a condition imposed by it under this section.

(4) Without prejudice to the generality of *subsections (1), (2)* and *(3)* hereof, conditions imposed by the Bank on an investment limited partnership may make provision for any or all of the following matters:

(*a*) the investment policies of the investment limited partnership, including its policies regarding diversification and gearing and including the type of property in which an investment limited partnership may invest;

(*b*) the issuing and content of prospectuses and other information disseminated by the investment limited partnership;

(*c*) the criteria for appointment of any F24**[**depositary**]** under *section 5*;

(*d*) the vesting of the assets or specified assets of the investment limited partnership in a F24**[**depositary**]**;

(*e*) the periodicity and contents of reports issued by the investment limited partnership;

(*f*) such other supervisory and reporting requirements and conditions relating to its business as the Bank considers appropriate and prudent to impose on the investment limited partnership from time to time for the purposes referred to in the aforesaid subsections.

(5) An investment limited partnership, general partner and F24**[**depositary**]** shall comply with any conditions relating to its authorisation or business imposed by the Bank which are applicable to them.

(6) A company incorporated outside the State shall not be considered solely by reason of being a limited partner in an investment limited partnership as having established a place of business within the State within the meaning of Part XI of the Companies Act, 1963.

(7) Where a general partner or a F24**[**depositary**]**, as appropriate, of an investment limited partnership fails to comply with *subsection (5)*, it shall be guilty of an offence.

Application for, and grant of, authorisation.

8.—F25**[**(1) The Bank shall not authorise an investment limited partnership—

(*a*) unless either—

(i) the proposed general partners or any one of them under the partnership agreement is authorised by the Bank under Part 2 of the European Union (Alternative Investment Fund Managers) Regulations 2013 or by the competent authority in its home Member State in accordance with Chapter II of Directive 2011/61/EC of the European Parliament and of the Council of 8 June 2011 or in its Member State of reference in accordance with that Chapter II; or

(ii) the proposed general partners or any one of them under the partnership agreement satisfies the Bank as to their competence and probity,

(*b*) save where the proposed general partners or any one of them under the partnership agreement is or are authorised as mentioned in *paragraph (a)(i)* if, in the opinion of the Bank, they are not of sufficiently good repute or lack the experience required for the performance of their duties; and

(*c*) unless the proposed F26**[**depositary**]** is a depositary as specified in Regulation 22(3) of the European Union (Alternative Investment Fund Managers) Regulations 2013.**]**

(2) No single person shall act as both general partner and F26**[**depositary**]**.

(3) The application by a partnership for authorisation as an investment limited partnership shall be made in writing by the person proposed as general partner under the partnership agreement to the Bank subject to *subsection (5)*.

F27**[**(4) The application must be in a form approved or provided by the Bank and be accompanied by—

F28**[**(*a*) the fee prescribed under section 32E of the Central Bank Act 1942 for the purposes of this subsection, and**]**

(*b*) a copy of the partnership agreement, and

(*c*) subject to *subsection (5)*, a statement signed by or on behalf of a person proposed as a general partner under the partnership agreement containing the particulars specified in *subsection (4A)*, and

(*d*) such further particulars or information as the Bank may specify for the purposes of determining the application, and

(*e*) such additional information as the Bank may specify in the course of determining the application.**]**

F29**[**(4A) The following particulars are specified F30**[**for the purposes of *subsection (4)(c)*]:

F31**[**(*a*) the name and, if any, the alternative foreign name (and, in the case of the latter, a translation of it into the English language) of the investment limited partnership;**]**

(*b*) a statement of the general nature of the investment objectives of that partnership;

(*c*) the address in the State of the registered office and the principal place of business in the State of that partnership;

(*d*) the period for which that partnership is entered into or, if no period is specified, a statement to the effect that that partnership is entered for an unlimited period and specifying the date of its commencement;

(*e*) the full name and address of the person proposed under the partnership agreement as a general partner and, if more than one, of each of them, specifying each of them as a general partner, and if a general partner is a body corporate not incorporated under the laws of the State, F32**[**a statement, if applicable, that the proposed general partner has complied with the requirements of section 1302 of the Companies Act 2014, and its registration number**]**;

(*f*) the full name F33**[**...**]** of the proposed F26**[**depositary**]** appointed under the terms of the partnership agreement in whom the assets of that partnership are required to be entrusted for safe keeping.**]**

F34**[**(4B) The reference in *subsection (4A)(a)* to an alternative foreign name is a reference to a particular name that is specified in the application to be such a name in respect of the investment limited partnership and this subsection confers power on an investment limited partnership to have such a name and the following apply to the name so specified:

(*a*) the name, as regards any territory, district or place not situate in the State, may be used, instead of the first-mentioned name in *subsection (4A)(a)*, in

relation to any act (by or in respect of the partnership), whether that act is performed within or outside the State;

(*b*) the name may consist of any letters, characters, script, accents or other diacritical marks that do not utilise the Roman alphabet, and does not need to be a translation or transliteration of the first mentioned name in *subsection (4A)(a)*.**]**

(5) If a person required by *subsection (4)* hereof to execute and deliver a statement 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 such person as the court sees fit, to sign the statement and deliver the same on behalf of the person in default.

(6) Upon receipt of these particulars and such other matters as required by the Bank, the Bank may issue a certificate of authorisation for the time being of the investment limited partnership, and a certificate so issued shall be conclusive evidence of compliance with all the requirements of this Act in respect of the formation and authorisation of an investment limited partnership.

(7) No proposed limited partner of a partnership in relation to which an application for authorisation as an investment limited partnership has been made shall have the benefit of limited liability in relation to the debts of that partnership until the date of the issuing of the certificate of authorisation.

(8) The Bank may refuse to authorise an investment limited partnership by a name which is, in the opinion of the Bank, undesirable, but an appeal against a refusal so to authorise shall lie to the Court.

F35**[**(8A) In addition to the power to refuse to authorise an investment limited partnership under the preceding, or any other provision, of this section, the Bank may refuse to authorise an investment limited partnership if, in the opinion of the Bank, the name that is specified in the application to be an alternative foreign name in respect of the partnership is undesirable, but an appeal against a refusal so to authorise shall lie to the Court.**]**

(9) Upon application to the Bank in accordance with this section, the Bank may refuse to authorise the investment limited partnership if—

(*a*) the applicant fails to fulfil the requirements set down in this Act or set down by the Bank under this Act;

(*b*) the applicant has not satisfied the Bank that it will be in a position to comply with any conditions imposed by the Bank under this Act;

(*c*) the Bank is not satisfied that authorisation would be in the interests of the proper and orderly regulation of investment limited partnerships.

Notification of refusal of authorisation and application to court.

9.—(1) Where the Bank decides to refuse an application for authorisation of an investment limited partnership under *section 8*, it shall notify the proposed general partner making the application of its decision and of the reasons therefor.

(2) Where the Bank refuses, or fails to take a decision on, an application for authorisation of an investment limited partnership within three months of the submission of an application properly made in accordance with the requirements of *section 8*, any proposed general partner may apply to the Court in accordance with *section 32*.

F36**[**Records of investment limited partnership and statements filed

10. The Bank shall maintain a record of each investment limited partnership authorised under this Act and of all statements, the subject of a filing, return or other submission made in accordance with this Act with or to the Bank, in relation to such investment limited partnership.**]**

PART IV

Administration

Variation of partnership agreement and change in general partner or F39**[**depositary**]**.

11.—F37**[**(1) No alteration in a partnership agreement shall be made unless the alteration has been approved by means of an instrument in writing signed by or on behalf of every partner to the partnership agreement, but this is subject to *subsections (1A)* and *(1B)*.**]**

F38**[**(1A) Notwithstanding *subsection (1)*, where the partnership agreement so stipulates, an alteration in a partnership agreement may be made if—

(*a*) every partner to the partnership agreement has been given notice, in accordance with the provisions of the partnership agreement in that behalf, of the proposed alteration, and

(*b*) the alteration is approved by means of an instrument in writing signed by or on behalf of a majority of the partners to the partnership agreement.

(1B) Notwithstanding *subsection (1)*, an alteration in a partnership agreement may be made if the depositary of the partnership has certified in writing that the alteration does not prejudice the interests of the limited partners, but only where the following conditions are satisfied:

(*a*) the matter to which the alteration relates is not a matter as respects which the Bank specifies that an alteration may be made only if the alteration is approved by the means referred to in *subsection (1)* (which specification the Bank is empowered by this paragraph to make);

(*b*) the partnership agreement confers a power on the depositary of the investment limited partnership to so certify that the alteration does not prejudice the foregoing interests,

and if the partnership agreement contains a stipulation, as referred to in *subsection (1A)*, that fact does not preclude the application of this subsection and if the partnership agreement confers a power on the depositary, as referred to in *paragraph (b)*, that fact does not preclude the application of *subsection (1A)*.

(1C) For the purpose of *subsection (1A)(b)*, a majority of the partners to the partnership agreement shall be regarded as comprising the sum of—

(*a*) the number of general partners that constitute the majority of general partners who have approved the alteration by the means there referred to, and

(*b*) the number of limited partners that constitute the majority of limited partners who have approved the alteration by the means there referred to, and *subsection (2)* of *section 19A* applies for the purpose of this paragraph as it applies, in the circumstances and to the extent provided in *subsection (1)* of that section, for the purpose of the matters referred to in that *subsection (2)*.**]**

(2) No alteration in the partnership agreement or change in the name of the investment limited partnership shall be made or take effect without the prior approval of the Bank.

(3) A general partner or F39**[**depositary**]** of an investment limited partnership may not be replaced by another general partner or F39**[**depositary**]**, nor may additional

general partners be admitted to such partnership F40**[**...**]**, without the prior approval of the Bank.

(4) Where a person is admitted to partnership as a general partner or causes or permits a general partner to be admitted to partnership of an investment limited partnership without the prior approval of the Bank, he shall be guilty of an offence.

F41**[**(5) On—

(*a*) the admission of any general partner or general partners (who or each of whom is referred to in this subsection as an "incoming general partner"), or

(*b*) the replacement, for a general partner or general partners, by another general partner or general partners (who or each of whom is also referred to in this subsection as an "incoming general partner"),

in accordance, in either case, with the terms of the partnership agreement and this Act, all rights or property of every description of the investment limited partnership, including all choses in action and any right to make capital calls and receive the proceeds thereof, held or deemed to be held by the general partner or general partners (who or each of whom is referred to in this subsection as an 'existing general partner') and all obligations, claims, debts and liabilities of the investment limited partnership to which the existing general partner or partners is or are subject shall vest without the requirement for further formalities in the incoming general partner and any continuing existing general partner and shall be held or owed, as appropriate, by that partner or those partners in accordance with the partnership agreement and this Act.

(6) On the withdrawal of a general partner in accordance with the terms of the partnership agreement and this Act—

(*a*) all rights or property of every description of the investment limited partnership, including all choses in action and any right to make capital calls and receive the proceeds thereof, held or deemed to be held by the general partner or general partners shall vest without the requirement for further formalities in the remaining general partner or general partners and shall be held by that partner or those partners in accordance with the partnership agreement and this Act, and

(*b*) the remaining general partner or general partners shall be liable for, and the property of the investment limited partnership held by that partner or those partners in accordance with the partnership agreement and this Act shall be subject to, all mortgages, charges or security interests and all contracts, obligations, claims, debts and liabilities of the investment limited partnership.**]**

Registered office and name.

12.—(1) An investment limited partnership shall at all times maintain a registered office in the State and a principal place of business in the State which may be at the same address, to which all communications and notices may be addressed.

F42**[**(2) Subject to *subsection (2A)*, every investment limited partnership shall use, at the end of its name, the words—

(*a*) "investment limited partnership" or the abbreviation "ILP", or

(*b*) in the Irish language, "Comhpháirtíocht Theoranta Infheistíochta" or the abbreviation "CTI",

and the words and the abbreviation set out in *paragraph (a)* may be used interchangeably (and, likewise, the words and the abbreviation set out in *paragraph (b)* may be so used).**]**

F43**[**(2A) In the circumstances, as provided for in *section 8(4B)(a)*, in which an investment limited partnership is permitted to use its alternative foreign name, the investment limited partnership shall use, at the end of that name, the words

"investment limited partnership", being those words as expressed in the same language as the alternative foreign name is expressed in.**]**

(3) F44**[**...**]**

(4) F44**[**...**]**

(5) If default is made in compliance with the requirements of *subsection (1)* or *(2)* any partner who is in default shall be guilty of an offence.

Register.

13.—F45**[**(1) The general partner shall maintain or cause to be maintained at the registered office of the investment limited partnership the following:

(*a*) a register of the name and address of each partner of the investment 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;

(*b*) a register of—

(i) the amounts and dates of the one or more contributions of each partner, and the dates on which those amounts were undertaken, and

(ii) the one or more amounts undertaken to be contributed by each partner, and the dates on which those amounts were undertaken to be contributed, and the amounts and dates of any payments representing a return of any part of the contribution of any partner.

(2) Except where otherwise provided for in the partnership agreement—

(*a*) the register referred to in *subsection (1)(a)*, shall be open to the inspection of any partner or depositary of the investment limited partnership, or any other person with the consent of the general partner, during business hours, and

(*b*) the register referred to in *subsection (1)(b)* shall be open to the inspection of any person during business hours with the consent of the general partner.**]**

F46**[**(2A) Each of the registers referred to in *subsection (1)(a)* and *(b)* shall also be open to the inspection of—

(*a*) the Bank, or

(*b*) any other statutory body the performance by which of its functions in a proper and effective manner reasonably requires that the general partner of the partnership concerned permit the inspection by it of that register.

(2B) In *subsection (2A)* "statutory body" means a body established by or under an enactment (other than the Companies Act 2014 or a former enactment relating to companies within the meaning of section 5 of that Act).**]**

(3) F47**[**Each of the registers referred to in *subsection (1)(a)* and *(b)***]** shall be *prima facie* evidence of the matters which are by *subsection (1)* directed to be inserted therein.

F48**[**(4) If default is made in compliance with any of the requirements of this section, each general partner of the investment limited partnership concerned shall be guilty of an offence and shall be liable, on summary conviction, to a class A fine and shall indemnify any person who thereby suffers any loss.**]**

F49**[**(5) If the contravention in respect of which a person is convicted of an offence under *subsection (4)* is continued after the conviction, the person shall be guilty of a further offence on every day on which the contravention continues and for each such offence the person shall be liable, on summary conviction, to a class D fine.

(6) If—

(*a*) the name of any person is, without sufficient cause, entered in, or omitted from, the register referred to in *paragraph (a)* of *subsection (1)* in contravention of that subsection, or

(*b*) default is made as to the specification of the correct particulars made in any entry on the register referred to in *paragraph (a)* or *(b)* of *subsection (1)* in contravention of that subsection,

the person aggrieved, or any partner of the investment limited partnership concerned or the investment limited partnership itself, may apply to the High Court for rectification of the register referred to in *paragraph (a)* or, as the case may be, *paragraph (b)* of *subsection (1)* (the "register concerned").

(7) Where an application is made under *subsection (6)*, the High Court may either refuse the application or may order rectification of the register concerned and, unless an application under *section 42A(2)* has been made or is pending in respect of the contravention concerned, may order payment by the investment limited partnership concerned of compensation for any loss sustained by any party aggrieved.

(8) The High Court when making an order for the rectification of the register concerned shall by its order direct, if appropriate, notice of the rectification to be given to the Bank.**]**

Prospectus.

14.—(1) Where the Bank, in exercise of the powers conferred upon it by *section 7 (4) (b)* requires the issuing by an investment limited partnership of a prospectus and an investment limited partnership fails to comply with that requirement or a prospectus so issued fails to comply with the contents so required of that prospectus, if any, the general partner shall be guilty of an offence.

(2) The Companies Acts, 1963 to 1990 shall not apply in relation to a prospectus published by an investment limited partnership.

(3) F50**[**...**]**

Accounts.

15.—(1) The Bank may exempt an investment limited partnership from the provisions of S.I. No. 396 of 1993, where its sole business is the investment of its funds in property with the aim of spreading investment risk and giving its partners the benefit of the management of its assets.

(2) The Bank may impose such conditions as to form, content and periodicity of accounts of an investment limited partnership as it deems appropriate.

Annual report and duty of auditor.

16.—(1) An investment limited partnership shall cause to be published and filed with the Bank an annual report the contents of which shall be prescribed by the Bank.

(2) The accounts of an investment limited partnership and the accounting information given in the annual report must be audited by one or more persons empowered to audit accounts in accordance with the Companies Acts and the auditor's report, including any qualifications, shall be produced in full in the annual report.

(3) If the auditor of an investment limited partnership—

(*a*) has reason to believe that the information provided to investors or to the Bank in the reports or other documents of the investment limited partnership does not truly describe the financial situation and the assets and liabilities thereof, or

(*b*) has reason to believe that the assets of the investment limited partnership are not or have not been invested in accordance with this Act or the partnership agreement, or

(*c*) has reason to believe that there exist circumstances which are likely to affect materially the ability of the investment limited partnership to fulfil its obligations to limited partners or meet any of its financial obligations, or

(*d*) has reason to believe that there are material defects in the financial systems and controls or returns of an investment limited partnership under this Act or conditions imposed thereunder, or its accounting records, or

(*e*) has reason to believe that there are material inaccuracies in or omissions from any returns of a financial nature made by the investment limited partnership to the Bank, or

(*f*) proposes to qualify any certificate which he is to provide in relation to financial statements under this Act or regulations made thereunder,

he shall report the matter to the Bank in writing without delay.

(4) The auditor of an investment limited partnership shall, if requested by the Bank, furnish to the Bank a report stating whether in his opinion and to the best of his knowledge the investment limited partnership has or has not complied with a specified obligation of a financial nature under this Act or conditions imposed thereunder.

(5) Where the auditor of an investment limited partnership so requests, the Bank shall provide to the auditor in writing details of such returns of a financial nature to the Bank by the investment limited partnership as the auditor requests for the purpose of enabling him to exercise his functions under this Act.

(6) The auditor of an investment limited partnership shall send to the investment limited partnership a copy of any report made by him to the Bank under *subsections (3)* and *(4)*.

(7) (*a*) Whenever the Bank is of the opinion that the exercise of its functions under this Act or the protection of the interests of limited partners so requires, it may require the auditor of an investment limited partnership to supply it with such information as it may specify in relation to the audit of the business of the investment limited partnership and the auditor shall comply with the requirement.

(*b*) The Bank may require that in supplying information for the purposes of this subsection, the auditor shall act independently of the investment limited partnership.

(8) No duty to which the auditor to an investment limited partnership may be subject shall be regarded as contravened, and no liability to the investment limited partnership or its partners, creditors or other interested parties, shall attach to the auditor by reason of his compliance with any obligation imposed on him by or under this section.

(9) Where non-performance of the publication of an annual report in approved form in accordance with *subsections (1)* and *(2)* occurs, each general partner shall be guilty of an offence and shall indemnify any person who thereby suffers any loss.

F51**[**(10) An auditor who fails to comply with *subsection (3)*, *(4)* or *(6)* shall be guilty of an offence.**]**

(11) A general partner or F52**[**depositary**]** who supplies information which he knows to be false to an auditor under this section shall be guilty of an offence and shall indemnify any person who thereby suffers loss.

Debts and obligations incurred by general partner.

17.—Any debt or obligation incurred by a general partner in the conduct of the business of an investment limited partnership shall be a debt or obligation of the investment limited partnership.

Admission of limited partners and assignment of interest.

18.—(1) Notwithstanding anything provided in the partnership agreement, a person may be admitted to an investment limited partnership as a limited partner with the consent of the general partner, or if more than one general partner, of all of them, and if by assignment, subject to *subsection (2)* without any requirement to obtain the consent of the existing limited partners.

(2) Subject to *subsection (1)* a limited partner may assign absolutely the whole or any part of his partnership interest and an assignee shall as of the date of such assignment become a limited partner with all of the rights and obligations of the assignor relating to the investment limited partnership, including the obligation of the assignor to make contributions in respect of the partnership interest or the part thereof assigned but excluding any liability of the assignor arising pursuant to *section 6*, *12* or *20*.

(3) A limited partner may assign the whole or any part of his partnership interest by way of mortgage or charge provided that no such assignment shall operate to constitute the assignee a partner in the investment limited partnership or relieve the assignor of any of its partnership obligations and section 31 of the Act of 1890 shall apply to any such assignment.

Differences as to business of investment limited partnership, inspection of books and contracts with partners.

19.—(1) Subject to any express or implied term of the partnership agreement—

(*a*) any difference arising as to matters connected with the business of an investment limited partnership shall be decided by the general partner and if more than one by a majority of the general partners;

(*b*) a limited partner may by himself or his agents at any reasonable time inspect the books of the investment limited partnership and inquire into the state and prospects of the partnership business with such assistance as may reasonably be required of the general partner, and may advise the partners thereon.

(2) Notwithstanding any rules of equity or common law applicable to partnerships, but subject to conditions imposed by the Bank, a partner may enter into any contract, including for the lending of money, or transact any business with an investment limited partnership, and such partner shall have the same rights and obligations with respect thereto as a person who is not a partner.

F53[References in partnership agreements to "majority of limited partners": construction of such references for certain purposes

19A. (1) *Subsection (2)* shall apply with respect to—

(*a*) any matter that a partnership agreement provides must be decided upon by a majority of the limited partners (whether the agreement provides that the decision thereon be obtained by means of votes cast by the limited partners, the giving of their consent or howsoever otherwise), or

(*b*) any provision of a partnership agreement that is expressed to operate (whatever the words used) by reference to the rights or interests (or incidents attaching to such rights or interests) of a majority of the limited partners,

if the partnership agreement, with respect to the foregoing matter or the foregoing provision, does not define or otherwise make provision for the construction of the expression "majority of limited partners".

(2) For the purposes of the matter referred to in *subsection (1)(a)* or, as the case may be, the provision referred to in *subsection (1)(b)*, a majority of the limited partners shall be taken to be constituted of a simple majority of the limited partners calculated by reference to the value of the contributions of the limited partners at the time the determination of that majority falls to be made.

(3) Where the terms concerned of the partnership agreement relate to a class or category of limited partners or to limited partners holding assets in a sub-fund (within

the meaning of the Schedule), references in the preceding subsections to limited partners include references to—

(*a*) such a class or category of limited partners, or

(*b*) the limited partners holding such assets.**]**

F54**[**Capital contributions by limited partners and liability of limited partners for partnership debts.

20. (1) A limited partner—

(*a*) shall be not liable to contribute any capital or property to the investment limited partnership except in the circumstances provided for in the partnership agreement,

(*b*) may receive out of the capital of the investment limited partnership a payment representing the return of any part of his contribution to the partnership in the circumstances provided for in the partnership agreement, but only if—

(i) the following duty of the general partner, under the 2013 Regulations, has been discharged, namely, the duty—

(I) to ensure that net asset value of the investment limited partnership is calculated in the manner provided for by those Regulations, and

(II) being that duty as of the most recent occasion (prior to the payment to the limited partner), on which it fell, in accordance with those Regulations, to be discharged,

and

(ii) the net asset value of the investment limited partnership, as calculated on that foregoing most recent occasion, was greater than zero,

and

(*c*) shall not be liable for the debts or obligations of the investment limited partnership beyond the amount of the partnership property contributed by the limited partner which is available to the general partner to meet such debts or obligations.

(2) In this section "2013 Regulations" means the European Union (Alternative Investment Fund Managers) Regulations 2013.**]**

Assignment.

21.—A limited partner shall cease to be a limited partner of an investment limited partnership on the absolute assignment of all of his partnership interest or on the return of the whole of his contribution including the release of any undertaking to contribute to the partnership provided that, notwithstanding any term of the partnership agreement or of any other agreement to the contrary no such assignment shall relieve the assignor of any liability arising under *section 6*, *12* or *20*.

Cessation of limited partner on assignment.

22.—(1) Subject to *subsections (2)* and *(3)*, legal proceedings in respect of any liability of or to an investment limited partnership including proceedings to enforce a foreign judgment by or against the investment limited partnership may be instituted by or against any one or more of the general partners only and no limited partner shall be a party to or named in such proceedings.

(2) *Subsection (1)* shall be without prejudice to the right of a general partner or a creditor of an investment limited partnership or other person to join in or otherwise institute proceedings against any one or more of the limited partners who may be liable for the debts of the investment limited partnership F55**[**, including in a case where such liability arises pursuant to *section 6*.**]**.

(3) A limited partner may with the leave of the court, bring an action on behalf of an investment limited partnership if the general partners with authority to bring such proceedings refuse to do so, and the court determines that that refusal is oppressive to the limited partner or in disregard of his interests as a limited partner.

Bankruptcy Act, 1988.

23.—F56**[**(1)**]** For the purposes of the application of sections 30, 31, 32 and 36 of the Bankruptcy Act, 1988, a limited partner shall not be regarded as a partner of an investment limited partnership.

F56**[**(2) For the purposes of its application to investment limited partnerships, section 30 of the Bankruptcy Act 1988 shall only apply where the general partner adjudicated bankrupt is the sole general partner.**]**

Obligations of F58**[**depositary**]**.

F57**[24.**—(1) (*a*) The F58**[**depositary**]** must enquire into the conduct of the general partners in the management of the investment limited partnership in each annual accounting period and report thereon to the limited partners.

(*b*) The F58**[**depositary**]**'s report shall be delivered to the general partner in good time to enable it to include a copy of the report in the Annual Report required under *section 16*.

(*c*) The F58**[**depositary**]**'s report shall state whether in the F58**[**depositary**]**'s opinion the general partner has managed the investment limited partnership in that period—

(i) in accordance with this Act or regulations made hereunder, directions of the Bank or the partnership agreement the limitations imposed on the investment and borrowing powers of the general partner andF58**[**depositary**]** by the partnership agreement or directions of the Bank, and

(ii) otherwise in accordance with the provisions of the partnership agreement and this Act,

and, if it has not done so, in what respect in which it has not done so and the steps which the F58**[**depositary**]** has taken in respect thereof.

(2) The F58**[**depositary**]** must carry out such additional duties as may be specified by the Bank by means of conditions imposed under *section 7(2)(b)*.

(3) Unless the general partners or any one of them under the partnership agreement is authorised by the Bank under Part 2 of the European Union (Alternative Investment Fund Managers) Regulations 2013 or by the competent authority in its home Member State in accordance with Chapter II of Directive 2011/61/EC of the European Parliament and of the Council of 8 June 2011 or in its Member State of reference in accordance with that Chapter II, the F58**[**depositary**]** must—

(*a*) carry out the instructions of the general partner unless they conflict with this Act or regulations made hereunder, directions of the Bank or the partnership agreement;

(*b*) ensure that in transactions involving investment limited partnership's assets any consideration is remitted to it within the usual time limits;

(*c*) ensure that an investment limited partnership's income is applied in accordance with this Act or regulations made hereunder, directions of the Bank or the partnership agreement;

(*d*) ensure that the value of the interests of the partners in the investment limited partnership is calculated in accordance with this Act and the partnership agreement;

(*e*) ensure that contributions and withdrawals of contributions of partners' capital are effected in accordance with the partnership agreement and the Act.

(4) Save where any of the general partners or any one of them is or are authorised as mentioned in *subsection (3)*, any provision whether contained in the partnership agreement or in any contract with an investment limited partnership F59**[**or otherwise**]** for exempting a F60**[**...**]** general partner or auditor of an investment limited partnership from, or indemnifying him against any liability which would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to an investment limited partnership shall be void, so, however, that an investment limited partnership may indemnify any such F60**[**...**]** general partner or auditor against any liability incurred by him in defending proceedings in which judgement is given in his favour or in which he is acquitted.

F61**[**(4A) An investment limited partnership may purchase and maintain for any general partner or auditor of the partnership insurance in respect of any liability referred to in *subsection (4)*.

(4B) In *subsections (4)* and *(4A)* a reference to a general partner or auditor includes a reference to any former or current general partner or auditor of an investment limited partnership.**]**

(5) A F58**[**depositary**]** who fails to comply with *subsection (1)* or *(2)* or any of *paragraphs (a)* to *(e)* of *subsection (3)* shall be guilty of an offence and shall indemnify any person who thereby suffers loss.**]**

F62**[**(6) If a partnership agreement contains a provision to the effect that a partner who fails to perform any of his obligations under, or otherwise breaches any provision of, the partnership agreement may be subject to, or suffer remedies for, or consequences of, the failure or breach that are specified in the partnership agreement or otherwise applicable under any law then those remedies or consequences shall not be unenforceable or rendered inapplicable solely on the basis that they are penal in nature.

(7) Without prejudice to the generality of *subsection (6)*, the remedies or consequences to which that subsection applies include:

(*a*) reducing, eliminating or forfeiting—

(i) the partnership interest in the investment limited partnership of the partner who has failed to perform, or has breached, the obligation or provision concerned (in this subsection referred to as the "defaulting partner" (and the partners who have neither failed to perform, nor breached, the obligation or provision concerned are referred to in this subsection as the "non-defaulting partners")), or

(ii) any rights of the defaulting partner under the partnership agreement;

(*b*) subordinating the partnership interest in the investment limited partnership (in this subsection referred to as a "partnership interest") of the defaulting partner to the interests of non-defaulting partners;

(*c*) effecting a 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 relevant commitment of the defaulting partner;

(*e*) providing for the fixing of the value of the defaulting partner's partnership interest by means of appraisal or by the application of a formula and the redemption or sale of the defaulting partner's partnership interest at that value.

(8) A general partner who, on the basis of a provision contained in the partnership agreement, and a failure or breach, referred in *subsection (6)*, purports in good faith—

(*a*) to make a decision that a partner be subject to, or suffer remedies for, or consequences of, the failure or breach that are specified in the partnership agreement or otherwise applicable under any law,

(*b*) to make a decision that a partner shall not be subject to, and shall not suffer remedies for, or consequences of, the foregoing failure or breach, or shall only be subject to, or suffer, certain remedies or consequences in that behalf (in this subsection referred to as a "partial decision"), or

(*c*) to give effect to a decision referred to in *paragraph (a)* or to a partial decision and, in either case, to take the appropriate steps (if any) required to be taken for that purpose,

shall not be liable for having made any such decision nor, as the case may be, for having given effect to a decision referred to in *paragraph (a)* or to a partial decision or, in either case, for having taken any aforementioned steps.

(9) References in the preceding subsections to a partnership interest shall be construed as including references to any part of a partnership interest.**]**

PART V

Powers of the Bank

Maintenance of records and powers of authorised persons.

25.—(1) F63**[**A general partner**]** and F64**[**depositary**]** shall keep at an office or offices within the State such books and records (including accounts) as may be specified from time to time by the Bank in the due discharge by the Bank of its statutory functions and shall notify the Bank of the address of every office at which such book or record is kept for the purposes of this Act.

(2) F65**[**...**]**

(3) Books and records kept pursuant to this section shall be in addition to books or records required to be kept by or under any other enactment, and shall be retained for at least such period as the Bank may specify in respect of such book or record.

(4) (*a*) In this section, *section 26* and *section 27*—

F66**[**...**]**

"associated undertaking" means, as appropriate—

(i) a holding company of the general partner or F64**[**depositary**]**,

(ii) a subsidiary company of the general partner or F64**[**depositary**]**,

(iii) a company which is a subsidiary of a body corporate where the general partner orF64**[**depositary**]**concerned is also a subsidiary of a body corporate, but neither company is a subsidiary of the other,

(iv) in the case of a general partner or F64**[**depositary**]**any other body corporate that is not a subsidiary of the general partner or F64**[**depositary**]**but in respect of which the company is beneficially entitled to more than 20 per cent. in nominal value of either the allotted share capital or of the shares carrying voting rights (other than voting rights which arise only in specified circumstances) in that other body corporate,

(v) a partnership in which the general partner or F64**[**depositary**]**has an interest and whose business is, or at the relevant time was, in the opinion of the Bank, materially relevant to any inspection of the general partner or F64**[**depositary**]**being carried out or proposed to be carried out under this section;

"holding company" and "subsidiary company" have the meanings given to them by section 155 of the Companies Act, 1963.

(*b*) References in this section to books, records or other documents or to any of them, shall be construed as including any document or information kept in a non-legible form (by the use of electronics or otherwise) which is capable of being reproduced in a legible form and all the electronic or other automatic means, if any, by which such document or information is so capable of being reproduced to which the person whose books, records or other such documents are inspected for the purposes of this Regulation, has access.

(5) Any person who is required to provide an authorised person with books, records or other documents under this section, or to give any information to an authorised person, and who fails to do so, or who knowingly provides an authorised person with information which is false, shall be guilty of an offence.

Appointment and powers of inspectors.

26.—(1) Without prejudice to the powers of the Bank under this Act, the Bank may apply to the court and the court may, if satisfied of the matters set forth in *subsection (2)*, appoint one or more inspectors to investigate the affairs of that investment limited partnership and, where necessary, any associated undertaking and to report thereon in such manner as the court directs.

(2) The court may appoint an inspector under this section where it is satisfied that there are circumstances suggesting that—

(*a*) limited partners are being oppressed or their interests as limited partners disregarded,

(*b*) limited partners are not being given all the information relating to the affairs of the investment limited partnership which they might reasonably expect,

(*c*) the affairs of the investment limited partnership are being conducted with the effect of defrauding its creditors or the creditors of any other person or in an unlawful manner,

(*d*) there has been persistent default by the investment limited partnership, its general partner or F67**[**depositary**]** in complying with the requirements of this Act,

(*e*) persons connected with the formation or management of an investment limited partnership have in connection therewith been guilty of fraud, misfeasance or other misconduct towards it or towards the limited partners, or any one of them,

(*f*) the appointment of an inspector is otherwise required in the interests of the proper and orderly regulation of investment limited partnerships.

(3) The court may consider matters in exercising its discretion under this provision notwithstanding that they relate to events occurring outside the State.

(4) Before applying to the court to appoint an inspector under this section, the Bank may, if it is of the opinion that it would not be prejudicial to the interests of limited partners or creditors of the investment limited partnership, notify the general partner and F67**[**depositary**]** of the investment limited partnership concerned in writing of the action which it proposes to take and of the grounds on which it proposes to take and, in such case, the general partner shall within such period as the Bank may set

out in the notification, be entitled to give to the Bank a statement in writing explaining its activities.

(5) Where an inspector appointed under *subsection (1)* thinks it necessary for the purposes of his investigation to investigate the affairs of any other investment limited partnership or any body corporate or present or former associated undertaking of the investment limited partnership he shall apply to the court for an order to widen the scope of his investigation, which order the court may make if it thinks it necessary for the purposes of the investigation, and if granted such order, shall have power to do so, and shall report on the affairs of the investment limited partnership or body corporate or present or former associated undertaking so far as he thinks the results of the investigation are relevant to the investigation of the first mentioned investment limited partnership.

(6) Where the court appoints an inspector under *subsection (1)* it may, from time to time, give such directions as it thinks fit, whether to the inspector or otherwise with a view to ensuring that the investigation is carried out as efficiently and as cost effectively as is practicable in the circumstances.

(7) (*a*) It shall be the duty—

(i) of the general partner and F67**[**depositary**]**, of all officers and agents thereof, and of all agents of the investment limited partnership the affairs of which are being investigated under *subsection (1)*, including persons outside the State, and

(ii) of any other person, including those being investigated under *subsection (5)*, and including persons outside the State, who the inspector considers is or may be in possession of any information concerning the affairs of an investment limited partnership,

to produce to an inspector appointed under *subsection (1)* all books, accounts, deeds, records or other documents of, or relating to, the business of an investment limited partnership being investigated under *subsection (1)* which are in their power, possession or procurement to attend before the inspector when required to do so at a specified place and time and otherwise to give to him all assistance in connection with the investigation which they are reasonably able to give.

(*b*) The inspector may examine on oath or by written interrogatories on oath the F67**[**depositary**]**, general partner, officer and agents thereof, and all agents of the investment limited partnership being investigated and any such person as is mentioned in *subsection (a)* of this provision in relation to its affairs and may—

(i) administer an oath accordingly,

(ii) reduce the answers of such person to writing and require that person to sign them.

(*c*) If an inspector has reasonable grounds for believing that a F67**[**depositary**]**, general partner, officers or agent thereof, or an agent of the investment limited partnership being investigated or other person being investigated or other person being investigated under *subsection (5)* maintains or has maintained either at that time or at any time in the past, an account of any description in a credit institution or an account with any other financial institution, including holdings of investment instruments, whether alone or jointly with another person and whether in the State or elsewhere, into or out of which has been paid any money which—

(i) had resulted from or been used in the financing of any transaction, arrangement or agreement relating to the business of the investment limited partnership,

(ii) has been in any way connected with any act or omission, or series of acts or omissions, which on the part of thatF67**[**depositary**]**, general partner, officers or agent thereof, or an agent of the investment limited partnership, constituted misconduct (whether fraudulent or not) towards an investment limited partnership or any client or creditor of the investment limited partnership,

the inspector may require the general partner, officers or agents thereof, or the agent of the investment limited partnership to produce to him all documents in his possession or under his control relating to that account and in this subsection "credit institution account" includes an account with any person exempt by virtue of section 7 (4) of the Central Bank Act, 1971 from the requirement of holding a licence granted under section 9 of that Act.

(*d*) If any general partner, F67**[**depositary**]**, all officers and agents thereof and any agents of the investment limited partnership, and of all agents of the investment limited partnership or any such person as is mentioned in this subsection refuses to produce to the inspector any book or document which it is his duty under this section to produce, refuses to attend before the inspector when required to do so, or refuses to answer any question put to him by the inspector with respect to the affairs of the investment limited partnership or other person mentioned in this subsection, as the case may be, the inspector may certify the refusal under his hand to the court and the court may thereupon enquire into the case and, after hearing any witnesses who may be produced against or on behalf of the alleged offender and any statement which may be offered in defence, make any order or direction as it thinks fit including a direction to the person concerned to attend or re-attend before the inspector or produce particular books or documents or answer a particular question put to him by the inspector, or a direction that the person concerned need not produce a particular book or document or answer a particular question put to him by the inspector.

(*e*) In this section, any references to officers or agents shall include past as well as present officers and agents, as the case may be, and "agents", in relation to an investment limited partnership shall include a general partner, F67**[**depositary**]**, the bankers, accountants, solicitors, auditors and the financial and other advisors of the investment limited partnership.

(8) (*a*) The expenses of and incidental to an investigation and the fees incurred by an inspector appointed by the court under *subsection (1)* shall be defrayed by the Bank but the court may direct that any person dealt with in the report shall be liable, to such extent as the court may direct, to repay the Bank any expenses or fees incurred.

(*b*) Without prejudice to *subsection (8) (a)* of this section, any person who is—

(i) convicted on indictment of an offence on a prosecution instituted as a result of an investigation,

(ii) ordered to pay damages or restore any property in proceedings brought as a result of an investigation, or

(iii) awarded damages or to whom property is restored in proceedings brought as a result of an investigation,

may, in the same proceedings, be ordered to repay all or part of the expenses and fees, referred to in *subsection (8) (a)* of this section and interest as appropriate, to the Bank or to any person on whom liability has been imposed by the court under that subsection provided that, in the case of a person to whom *paragraph (iii)* of this subsection relates, the court shall not order payment in excess of one-tenth of the amount of the damages awarded or of the value of the property restored and interest as appropriate as the case

may be, and any such order shall not be executed until the person concerned has received his damages or the property has been restored, as the case may be.

(*c*) The report of an inspector may, if he thinks fit, and shall, if the court so directs, include a recommendation as to the directions, if any, which he thinks appropriate, in the light of his investigation, to be given under *subsection (8) (a)* of this section.

(9) (*a*) An inspector appointed under this section may, and shall if the court so requires, make an interim report to the Court, and, on the conclusion of his investigation, but he may at any time in the course of the investigation, without making an interim report, inform the court of matters coming to his knowledge as a result of the investigation tending to show that an offence has been committed.

(*b*) On a report being presented to it under this section the court shall—

(i) forward a copy of any such report to the Bank,

(ii) if it thinks fit, furnish a copy thereof, to the general partner and the investment limited partnership and its auditors, and

(iii) if it thinks fit—

(*a*) furnish a copy thereof, on request and on payment of such fees as it may fix, to any other person who is a member of the investment limited partnership or a member of any other body dealt with in the report by virtue of this section or whose interests as a creditor or client of the investment limited partnership or of any other such body appear to the court to be affected, and

(*b*) cause any such report to be printed and published.

(*c*) Where the court thinks so proper it may direct that a particular part of a report made by virtue of this section be omitted from a copy forwarded or furnished under *subsection (9) (b) (ii)* or *(9) (b) (iii) (a)* of this section or from the report as printed and published under *subsection (9) (b) (iii) (b)*.

(10) (*a*) Having considered a report under *subsection (9)* of this section, the court may make such order as it thinks fit in relation to matters arising from that report including—

(i) an order of its own motion for the winding up of an investment limited partnership,

(ii) an order for the purpose of remedying any disability suffered by any person whose interests were adversely affected by the conduct of the affairs of the investment limited partnerships provided that, in making any such order, the court shall have regard to the interests of any other person who may be adversely affected by the order.

(*b*) If, in the case of any investment limited partnership liable to be wound up under this Act, it appears to the Bank from—

(i) any report made under *subsection (9)* of this section as a result of an application by the Bank under *subsection (1)*, or

(ii) any report made by an inspector appointed by the Bank under this Act, or

(iii) any information or document obtained by the Bank under this Act,

that a petition should be presented for the winding up of an investment limited partnership, the Bank may, unless the investment limited partnership

is already being wound up by the court, present a petition for it to be so wound up if a court thinks it just and equitable for it to be so wound up.

Obligation of general partner and F68**[**depositary**]** to furnish information.

27.—(1) A general partner and F68**[**depositary**]** shall each furnish the Bank—

(*a*) at such times as the Bank may specify from time to time, such information and returns concerning the business of the investment limited partnership or the carrying on of a business as aforesaid by such person, as the case may be, as the Bank may specify from time to time, being information and returns which the Bank considers it necessary to have for the due performance of its statutory functions;

(*b*) within such period as the Bank may specify, any information and returns (not being information or returns specified under F69**[***paragraph (a)***]**) concerning the business of the investment limited partnership or the carrying on of that business as aforesaid by such person, as the case may be, that the Bank may request in writing, being information and returns which the Bank considers it necessary to have for the due performance of its statutory functions.

(2) A person shall not furnish information or returns under this section which he knows to be false.

(3) *Subsections (1)* and *(2)* shall apply to the business of an associated undertaking to the extent only that the information and returns sought by the Bank are, in the opinion of the Bank, materially relevant to the proper appraisal of the business of the investment limited partnership F70**[**in relation to which the foregoing undertaking is an associated undertaking**]**.

(4) Any person who is required to provide the Bank with information or returns and who fails to do so, or who knowingly provides the Bank with information which is false, shall be guilty of an offence.

F71**[**Requirement to hold information on beneficial ownership of partnership.

27A. (1) A general partner of an investment limited partnership shall take all reasonable steps to obtain and hold adequate, accurate and current information in respect of the investment limited partnership's beneficial owners, that is to say—

(*a*) the name, date of birth, nationality, and residential address of each beneficial owner of it,

(*b*) a statement of the nature and extent of the interest held, or the nature and extent of control exercised, by each such beneficial owner, and

(*c*) the PPS number of each such beneficial owner to whom such a number has been issued,

and any PPS number so obtained shall not be disclosed by the investment limited partnership for any purpose of this section or of any of *section 27B*, *27C*, *28*, *28A*, *28B*, *28C* or *46*.

(2) The general partner shall enter the information referred to in *subsection (1)(a)* and *(b)* in the investment limited partnership's beneficial ownership register, and the following information shall also be entered by the general partner in that register:

(*a*) the date on which the name of each individual was entered into the register as a beneficial owner of the investment limited partnership;

(*b*) the date on which each individual who has ceased to be a beneficial owner of the investment limited partnership ceased to be such an owner.

(3) If, either—

(*a*) after exhausting all possible means, and provided there are no grounds for suspicion by the general partner, no individual is identified as a beneficial owner of the investment limited partnership, or

(*b*) there is any doubt that any individual so identified is a beneficial owner of the investment limited partnership,

there shall be entered, in the investment limited partnership's beneficial ownership register as its beneficial owners (stating the nature and extent of the control exercised by them), the names of the one or more individuals who hold the position of general partner or partners of the investment limited partnership or, in the case of a general partner that is a body corporate, the one or more individuals who are the senior managing officials of the general partner (including, in any of the foregoing cases, their date of birth, nationality and residential addresses) and—

(i) the requirement of *subsection (1)* with regard to not disclosing a PPS number shall apply in the case of this subsection as that requirement applies in the case of *subsection (1)*,

(ii) *subsection (2)* shall apply in the case of this subsection as it applies in the case of *subsection (1)*, and

(iii) references in any subsequent section of this Act to the particulars referred to in *subsection (1)(a)* and *(b)* of this section shall be deemed to include, where the context admits, references to the particulars referred to in this subsection.

(4) In a case falling within *subsection (3)(a)* or *(b)*, the general partner shall keep records of the actions taken in order to identify the beneficial ownership of the investment limited partnership.

(5) A general partner of an investment limited partnership shall provide any member of the Garda Síochána, the Revenue Commissioners, a competent authority or the Criminal Assets Bureau with timely access, on request, to the investment limited partnership's beneficial ownership register.

(6) Each of the following:

(*a*) the Garda Síochána;

(*b*) the Revenue Commissioners;

(*c*) a competent authority;

(*d*) the Criminal Assets Bureau,

may disclose the information in a beneficial ownership register to any corresponding competent authority of another Member State (a "corresponding authority"); in the event of there being a request made of a body or other person referred to in any of *paragraphs (a)* to *(d)* by a corresponding authority for disclosure of such information, the request shall be complied with in a timely manner.

(7) Where a general partner of an investment limited partnership enters into an occasional transaction with a designated person or forms a business relationship with a designated person, the general partner shall—

(*a*) inform the designated person in writing that it is acting as a general partner of an investment limited partnership,

(*b*) provide information on the investment limited partnership's beneficial ownership to the designated person when the designated person is taking customer due diligence measures in accordance with Part 4 of the Act of 2010,

(*c*) on request from the designated person, provide the designated person without delay with information identifying all the beneficial owners of the investment limited partnership, and

(*d*) notify the designated person of any change to the investment limited partnership's beneficial ownership register that occurs which is relevant to the occasional transaction or that occurs during the course of the business relationship formed, and the date on which it occurred within 14 days from the date on which the general partner or, if more than one, any one of the general partners of the investment limited partnership, became aware of the change.

(8) For the purposes of *subsection (7)* "occasional transaction" means a transaction in relation to which the designated person is required to apply customer due diligence measures under Part 4 of the Act of 2010.

(9) A general partner that fails to comply with *subsection (1)*, *(2)*, *(3)*, *(4)*, *(5)* or *(7)* shall be guilty of an offence.**]**

F72**[**Duty to give particular notice to individuals believed to be beneficial owners of investment limited partnership.

27B. (1) Without prejudice to the generality of *section 27A(1)*, a general partner of an investment limited partnership shall give to any individual whom it has reasonable cause to believe to be a beneficial owner of the investment limited partnership the notice specified in *subsection (2)*, but this is subject to *subsection (5)*.

(2) The notice referred to in *subsection (1)* is a notice, addressed to the individual concerned, that requires the addressee—

(*a*) to state whether or not he or she is a beneficial owner of the investment limited partnership, and

(*b*) if so, to confirm or correct any particulars of his or hers that are included in the notice, and supply any that are missing,

and such a notice is referred to subsequently in this section as a notice under this section.

(3) A notice under this section shall—

(*a*) state that it is given under "section 27B of the Investment Limited Partnerships Act 1994", and

(*b*) as respects each of the particulars referred to in *section 27A(1)(a)*, *(b)* and *(c)*—

(i) set out that which—

(I) to the knowledge of the general partner is, or

(II) with reasonable cause is believed by it to be,

the relevant particular, or

(ii) in the absence of such knowledge or belief (on its part as respects a relevant particular) indicate, by leaving a space in the appropriate place, that that particular is not given in the notice.

(4) A notice under this section shall also state that the addressee is to comply with the notice by no later than the end of the period of one month beginning with the date of the notice.

(5) A general partner is not required to give a notice under this section if—

(*a*) the general partner has already been informed of the status of the individual referred to in *subsection (1)* as a beneficial owner of the investment limited

partnership, and been supplied with all the particulars referred to in *section 27A(1)(a)*, *(b)* and *(c)*, and

(*b*) the information and particulars were provided either by that individual or with his or her knowledge.

(6) A general partner that fails to comply with *subsection (1)* or any other provision of this section shall be guilty of an offence.**]**

F73**[**Other particular steps that may be taken to establish identity of beneficial owners.

27C. (1) This section—

(*a*) is without prejudice to the generality of *section 27A(1)*, and

(*b*) does not derogate from the duty, where it arises, under *section 27B*.

(2) A general partner of an investment limited partnership may give to any person (whether an individual or not) the notice specified in *subsection (3)* if it has reasonable cause to believe that the person has the knowledge referred to in *paragraph (a)* or *(b)* of that subsection.

(3) The notice referred to in *subsection (2)* is a notice, addressed to the person referred to in that subsection, that requires the addressee—

(*a*) to state whether or not the addressee knows the identity of—

(i) any individual who is a beneficial owner of the investment limited partnership, or

(ii) any person (whether an individual or not) likely to have that knowledge,

and

(*b*) if so, to supply any particulars of any such person that are within the addressee's knowledge, and state whether or not the particulars are being supplied with the knowledge of each of the persons concerned,

and such a notice is referred to subsequently in this section as a notice under this section.

(4) For the purposes of *subsection (3)*—

(*a*) a reference to knowing the identity of a person includes a reference to knowing information from which that person can be identified, and

(*b*) a reference in *paragraph (b)* of it to particulars is a reference—

(i) in the case of the individual referred to in *paragraph (a)(i)* of it — to the particulars referred to in *section 27A(1)(a)* and *(b)*, and

(ii) in the case of the person referred to in *paragraph (a)(ii)* of it — to any particulars that will allow the person to be contacted by the general partner.

(5) A notice under this section shall state—

(*a*) that it is given under "section 27C of the Investment Limited Partnerships Act 1994", and

(*b*) that the addressee is to comply with the notice by no later than the end of the period of one month beginning with the date of the notice.

(6) Nothing in this section shall be construed as requiring a person to whom a notice under it is given to disclose any information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.**]**

Change in particulars.

28.—(1) If during the continuance of an investment limited partnership any change is made or occurs in any particulars specified in F74**[***section 8 (4A) (a)* to (*f*)**]** with respect to the investment limited partnership, a statement signed by a general partner specifying the nature of the change shall, within five days of such change, be delivered to the Bank.

(2) No change in any of the matters specified in F74**[***section 8 (4A) (a)* to (*f*)**]** shall take effect until the Bank has issued a letter consenting to such change, and no change in the name of an investment limited partnership shall take effect until an amended certificate of authorisation has been delivered by the Bank.

F75**[**(3) *Subsection (5)* applies where particulars of an individual, as being a beneficial owner of an investment limited partnership, are entered in the investment limited partnership's beneficial ownership register.

(4) For the purpose of *subsections (5)* to *(10)*, a relevant change occurs if—

(*a*) the individual referred to in *subsection (3)* ceases to be a beneficial owner of the investment limited partnership, or

(*b*) any other change occurs as a result of which the particulars (stated in the foregoing register) in relation to the individual are incorrect or incomplete.

(5) Where this subsection applies, the general partner shall, in accordance with *subsection (6)*, give the notice specified in *subsection (7)* to the individual if it knows or has reasonable cause to believe that a relevant change has occurred, but this is subject to *subsection (10)*.

(6) The foregoing notice shall be given by the general partner as soon as reasonably practicable after the general partner learns of the change concerned or first has reasonable cause to believe that the change concerned has occurred.

(7) The notice referred to in *subsection (5)* is a notice, addressed to the individual concerned, that requires the addressee—

(*a*) to confirm whether or not the change concerned has occurred, and

(*b*) if so—

(i) to state the date of the change, and

(ii) to confirm or correct the particulars included in the notice, and supply any that are missing from the notice,

and such a notice is referred to subsequently in this section as a notice under this section.

(8) A notice under this section shall—

(*a*) state that it is given under "section 28 of the Investment Limited Partnerships Act 1994", and

(*b*) as respects such of the particulars referred to in *section 27A(1)(a)* and *(b)* as are known by the general partner (or with reasonable cause believed by it) to have been the subject of the change concerned—

(i) set out that which—

(I) to the knowledge of the general partner are, or

(II) with reasonable cause are believed by it to be,

the relevant particulars as they now stand in consequence of that change, or

(ii) in the absence of such knowledge or belief (on its part as respects a relevant particular) indicate — by leaving a space in the appropriate place — that that particular is not given in the notice.

(9) A notice under this section shall also state that the addressee is to comply with the notice by no later than the end of the period of one month beginning with the date of the notice.

(10) A general partner is not required to give a notice under this section if—

(*a*) the general partner has already been informed of the change concerned, and

(*b*) that information (including, as the case may be, the relevant particulars referred to in *subsection (4)(b)*) were provided either by the individual concerned or with his or her knowledge.

(11) A general partner that fails to comply with *subsection (5)* or any other provision of this section shall be guilty of an offence.**]**

F76**[**Duty of beneficial owner (in certain circumstances) to notify status as such.

28A. (1) This section applies to an individual if—

(*a*) the individual is a beneficial owner of an investment limited partnership,

(*b*) the individual knows that to be the case or ought reasonably to do so,

(*c*) in relation to the individual, the particulars referred to in *section 27A(1)(a)* and *(b)* are not stated in the investment limited partnership's beneficial ownership register,

(*d*) the individual has not been given a notice by the general partner under *section 27B*, and

(*e*) the circumstances specified in *paragraphs (a)* to *(d)* have continued for a period of at least one month.

(2) An individual to whom this section applies shall notify, in writing, the general partner of the investment limited partnership referred to in *subsection (1)* of the individual's status (as a beneficial owner) of the investment limited partnership, and that notification shall state—

(*a*) the date, to the best of the person's knowledge, on which the person acquired that status, and

(*b*) the particulars referred to in *section 27A(1)(a)*, *(b)* and *(c)*.

(3) *Subsection (2)* shall be complied with by the individual not later than the end of the period of one month beginning with the day on which all the conditions specified in *subsection (1)(a)* to *(e)* were first met with respect to the person.

(4) An individual who—

(*a*) fails to comply with this section, or

(*b*) in purported compliance with this section, makes a statement that is false in a material particular, knowing it to be so false or being reckless as to whether it is so false,

shall be guilty of an offence.**]**

F77[Duty of individual (in certain circumstances) to notify relevant change.

28B. (1) This section applies to an individual if—

(*a*) in relation to the individual (as a beneficial owner of the investment limited partnership), the particulars referred to in *section 27A(1)(a)* and *(b)* are stated in an investment limited partnership's beneficial ownership register,

(*b*) a relevant change occurs,

(*c*) the individual knows of the change or ought reasonably to do so,

(*d*) the investment limited partnership's beneficial ownership register has not been altered to reflect the change, and

(*e*) the individual has not been given a notice by the general partner under *section 28* by the end of the period of one month beginning with the day on which the change occurred.

(2) For the purposes of this section, a relevant change occurs if—

(*a*) the individual referred to in *subsection (1)* ceases to be a beneficial owner of the investment limited partnership referred to in that subsection, or

(*b*) any other change occurs as a result of which the particulars (stated in the investment limited partnership's beneficial ownership register) in relation to the individual are incorrect or incomplete.

(3) An individual to whom this section applies shall notify, in writing, the general partner referred to in *subsection (1)(a)* of the relevant change, and that notification shall—

(*a*) state the date on which the change occurred, and

(*b*) give to the general partner any necessary information so that it can alter the investment limited partnership's beneficial ownership register to reflect that change.

(4) *Subsection (3)* shall be complied with by the individual not later than whichever of the following periods is the last to expire—

(*a*) the period of 2 months beginning with the day on which the relevant change occurred, or

(*b*) the period of one month beginning with the day on which facts have come to the notice of the individual from which he or she could reasonably conclude that the relevant change has occurred.

(5) An individual who—

(*a*) fails to comply with this section, or

(*b*) in purported compliance with this section, makes a statement that is false in a material particular, knowing it to be so false or being reckless as to whether it is so false,

shall be guilty of an offence.**]**

F78[Offence for failure to comply with notice under *section 27B*, *27C* or *28*.

28C. (1) A person to whom a notice under *section 27B*, *27C* or 28 is given shall be guilty of an offence if the person—

(*a*) fails to comply with the notice, or

(*b*) in purported compliance with the notice, makes a statement that is false in a material particular, knowing it to be so false or being reckless as to whether it is so false.

(2) In proceedings for an offence under this section it shall be a defence to prove that the requirement (in the notice concerned) to give information was frivolous or vexatious.**]**

Revocation of authorisation.

29.—(1) The Bank may revoke the authorisation of an investment limited partnership if it appears to the Bank—

(*a*) that any of the requirements for the authorisation of the investment limited partnership are no longer satisfied,

(*b*) that it is undesirable in the interests of the limited partners that the investment limited partnership should continue to be authorised,

(*c*) without prejudice to *paragraph (b)*, that the general partner or F79**[**depositary**]** of the investment limited partnership has contravened any provision of this Act or conditions imposed hereunder or, in purported compliance with any such provision, has furnished the Bank with false, inaccurate or misleading information or has contravened any prohibition or requirement imposed under this Act.

(2) The Bank may revoke the authorisation of an investment limited partnership at the request of the general partner orF79**[**depositary**]**, but it may refuse to do so if it considers that any matter concerning the investment limited partnership should be investigated as a preliminary to a decision on the question of whether the authorisation should be revoked or that revocation would not be in the interests of the limited partners.

(3) F80**[**...**]**

Replacement of general partner and F81**[**depositary**]**.

30.—(1) The Bank may replace a general partner or F81**[**depositary**]** with another general partner or F81**[**depositary**]** where—

(*a*) it is satisfied that the general partner or F81**[**depositary**]** has failed to demonstrate the competence, probity or experience in the discharge of their functions reasonably required of them,

(*b*) it is satisfied that they are not of sufficiently good repute,

(*c*) it is satisfied that it is undesirable in the interests of the limited partners that the person should remain as general partner or F81**[**depositary**]**,

(*d*) without prejudice to *paragraph (c)*, it is satisfied that the general partner or F81**[**depositary**]** has contravened any provision of this Act or regulations made thereunder or, in purported compliance with any such provision, has furnished the Bank with false, inaccurate or misleading information or has contravened any prohibition or requirement imposed under this Act or regulations made hereunder.

(2) Upon replacement by the Bank under this section of a general partner or F81**[**depositary**]**, that general partner or F81**[**depositary**]** as the case may be shall cease to be a partner of or F81**[**depositary**]** to the investment limited partnership, without prejudice to the general partner's liabilities in respect of the debts and obligations of the partnership and the powers and duties of the general partner or F81**[**depositary**]**under the partnership agreement or this Act shall be exercised and carried out by the new general partner or F81**[**depositary**]**, as the case may be.

(3) The Bank may, by application to the Court, seek such interim or interlocutory relief preventing a general partner or F81**[**depositary**]** from acting as such or appointing a person to carry out their functions and the court on such application, having regard to the matters set forth in *subsection (1)* and the protection of the limited partners, may make such order as it deems appropriate.

Notification by Bank of revocation or replacement.

31.—(1) Where the Bank proposes to revoke the authorisation of an investment limited partnership other than at the request of the general partner or F82**[**depositary**]** under *section 29*, or to replace a general partner and F82**[**depositary**]** under *section 30*, it shall give the general partner and F82**[**depositary**]** notice of its intention to act and, where it proposes to replace a general partner or F82**[**depositary**]** under *section 30* the identity of the proposed new general partner F83**[**or depositary**]**.

(2) Upon receipt of such notification, the general partner shall cause forthwith the limited partners to be informed of the receipt of such notice from the Bank.

(3) A partner or F82**[**depositary**]** may, within fifteen days of the date of service of a notice pursuant to *subsection (1)*, make written representations to the Bank which period, in the case of representations by a limited partner, the Bank may extend.

(4) The Bank shall have regard to any representations made in accordance with *subsection (3)* in determining whether to revoke the authorisation of an investment limited partnership or to replace the general partner or F82**[**depositary**]**, as the case may be.

(5) A general partner who fails to comply with *subsection (2)* shall be guilty of an offence and shall indemnify any person who thereby suffers loss.

Application to court in case of refusal of authorisation, revocation of authorisation or replacement of general partner or F84**[**depositary**]**.

32.—(1) Where the Bank refuses an application for authorisation under *section 8*, fails to take a decision on an application within three months of the date hereof, revokes or refuses to revoke an authorisation under *section 29*, or determines to replace a general partner or F84**[**depositary**]** under *section 30*, any aggrieved party (including a limited partner) may apply to the Court to have the matter reviewed.

(2) Where an application is made under *subsection (1)*, the Court shall confirm the decision of the Bank unless it is satisfied that the procedures laid down by, or the requirements of, this Act have not been complied with in any material respect or that there was no material before the Bank on which the Bank could reasonably conclude—

(*a*) in the case of a refusal of authorisation or a failure to authorise within three months, that the criteria set forth in *section 8 (1)* or *section 8 (9)* have not been established,

(*b*) in the case of a decision to revoke the authorisation of an investment limited partnership, that the matters set forth in *section 29 (1)* have been established,

(*c*) in the case of a decision to replace a general partner or F84**[**depositary**]**, that the matters set forth in *section 30 (1)* have been established.

(3) Where the Court does not confirm the decision of the Bank on an application made to it under *subsection (2)*, it may set aside the decision of the Bank or, if the Bank has failed to take a decision within three months, direct it to take a decision within such time as the court may direct, and in any such case, remit the matter to the Bank which shall thereupon reconsider the matter and make a decision in accordance with such procedures and requirements.

(4) Any application under this section shall be made on notice to the Bank, the general partner and the F84**[**depositary**]**.

(5) Where a general partner brings an application under this section or receives notice of such an application, he shall forthwith cause the limited partners to be informed thereof, and any limited partner shall be entitled to appear before the court and be heard thereon.

(6) A general partner who fails to comply with *subsection (5)* shall be guilty of an offence.

Directions by the Bank.

33.—(1) Where the Bank is of the opinion that it is in the public interest to do so or in the interests of the proper and orderly regulation of investment limited partnerships, or that any of the requirements for authorising an investment limited partnership are no longer satisfied, or that the investment limited partnership, F85**[**depositary**]** or the general partner—

(*a*) has become or is likely to become unable to meet his obligations to his creditors, or

(*b*) has contravened this Act, or has failed to comply with any condition or requirement imposed under this Act by the Bank on the F85**[**depositary**]** or the general partner, or in purported compliance with any such provision, has furnished the Bank with false, inaccurate or misleading information, or

(*c*) is not maintaining adequate capital resources having regard to the volume and nature of its business, or

(*d*) no longer complies with the capital or other financial requirements imposed by the Bank from time to time,

the Bank may give a direction in writing to that F85**[**depositary**]** or general partner requiring it to take such steps, including the winding-up of the investment limited partnership or the suspension of the assignment of any partnership interest, as in the opinion of the Bank are necessary in the interests of the proper and orderly regulation of investment limited partnerships or for the protection of limited partners, creditors of the investment limited partnership or creditors of the partners in an investment limited partnership.

(2) For the purposes of *subsection (1)*, the Bank may take into account any matter relating to the investment limited partnership, the general partner or F85**[**depositary**]**, a director or controller of the general partner or F85**[**depositary**]** or any person employed by or associated with the general partner or F85**[**depositary**]** in connection with the investment limited partnership.

(3) F86**[**On the receipt of such a direction, the general partner shall thereupon (or immediately after)**]** cause all limited partners of the investment limited partnership to be informed thereof.

(4) The Bank may revoke a direction under *subsection (1)* of this section unless an order under *subsection (8)* of this section has been made in respect of the direction.

(5) A F85**[**depositary**]** or partner on whom a direction has been imposed under *subsection (1)* of this section, and any limited partner of an investment limited partnership in respect of which such a direction has been issued, may apply to the Court for, and the Court may grant, an order setting aside the direction.

(6) Upon an application made to it under *subsection (5)* of this section, the court shall not set aside a direction given by the Bank unless it is satisfied that the procedures laid down by, or the requirements of, this Act have not been complied with in any material respect, or that—

(*a*) there was no evidence upon which the Bank could reasonably conclude that the public interest or the interests of the proper and orderly regulation of investment limited partners required such a direction, or

(*b*) there was no evidence upon which the Bank could reasonably conclude that the state of affairs set forth in *subsection (1)* existed, or

(*c*) having regard to the matters established before the court and the proper and orderly regulation of investment limited partnerships, that the direction was not reasonably proportionate to those matters so established.

(7) An application under *subsection (5)* of this section shall not be entertained after the expiry of twenty one days from the date of making of the direction.

(8) The Bank may apply to the court for, and the court may grant, an order confirming a direction given under *subsection (1)* of this section or confirming and extending the period of operation of the direction for such period as the court may consider appropriate.

(9) A direction to which *subsection (8)* of this section applies shall cease to have effect—

(*a*) where the direction was confirmed, upon the expiration of the period to which the direction relates,

(*b*) where the direction was confirmed and the period of its operation was extended, upon the expiration of that extended period,

(*c*) from such date as the court by order determines,

(*d*) upon the making of a winding-up order in respect of the investment limited partnership, or the dissolution of the investment limited partnership,

(*e*) where the court is of the opinion that the circumstances which gave rise to the direction have ceased to exist and that it would be unjust and inequitable not to make an order to that effect, from such date as the court determines,

which ever occurs first.

(10) (*a*) Where the Bank is of the opinion that even if the F85**[**depositary**]** or partner on whom a direction has been imposed appears to be able to meet his obligations to creditors, but the circumstances giving rise to the direction are unlikely to be rectified it may forthwith apply to the court for, and the court may grant an order directing the F85**[**depositary**]** or partner to prepare, in consultation with the Bank, a scheme for the orderly termination of his business and the discharge of his liabilities and to submit the final scheme to the court within three months for the court's approval;

(*b*) Notice of an application under *paragraph (a)* shall be given by the general partner to the limited partners;

(*c*) The court shall not grant an order under *paragraph (a)* of this section unless it is satisfied that the proper and orderly regulation of investment limited partnerships as a whole and the interests of the partners and creditors of the investment limited partnership in question together with the creditors of the F85**[**depositary**]** or partners of the investment limited partnership, requires such an order;

(*d*) The court shall not approve the terms of the scheme without hearing the Bank and may adjudicate in the event of any dispute between the parties; and

(*e*) If the F85**[**depositary**]** or partner fails to comply with the order of the court or to adhere to the scheme approved by the court, the Bank may apply to the court for and the court may make such further order as it considers appropriate, including an order of committal or a winding up order on the grounds that it is just and equitable that the F85**[**depositary**]** or partner should be wound up.

(11) While a direction under this section is in force—

(*a*) an investment limited partnership to which it relates shall not be dissolved;

(*b*) the court may restrain any disposal of the assets of the investment limited partnership which will have the effect of perpetrating a fraud on the investment limited partnership, its creditors or partners.

(12) A general partner who fails to comply with *subsections (3)* and *(10) (b)* shall be guilty of an offence.

Power of court in case of failure to comply with requirement or condition.

34.—(1) Where, on an application made in a summary manner by the Bank, the court is satisfied that there has occurred or is occurring a failure by an investment limited partnership to comply with a requirement or condition imposed under or by virtue of this Act, the court may, by order, prohibit the continuance of the failure or enforce compliance with the requirement by the investment limited partnership, general partner or F87**[**depositary**]**.

(2) In determining whether to grant an order under this section, the court shall consider—

(*a*) the requirements of the orderly and proper regulation of investment limited partnerships;

(*b*) the interests of creditors of the investment limited partnership, the limited partners and creditors of the partners;

(*c*) the gravity of the non-compliance complained of.

(3) The court may grant such interim or interlocutory relief on an application under this section as in the light of the matters set forth in *subsection (2)*, as it considers appropriate.

(4) An application under this section, other than application for interim relief, shall be made on notice to the investment limited partnership, the general partner and the F87**[**depositary**]**.

(5) Upon receipt of a notice of an application under this section, the general partner shall cause the limited partners to be forthwith informed thereof.

(6) A general partner who fails to comply with *subsection (5)* shall be guilty of an offence.

Personal liability of officers of general partner where failure to keep proper books or records.

35.—(1) Subject to *subsection (2)* of this section, if—

(*a*) an investment limited partnership is being wound up and is unable to pay all of its debts, and

(*b*) the court considers that there has been a contravention of *section 16 (1)* or *section 25 (1)* which has contributed to the inability of the investment limited partnership to pay all of its debts or has resulted in substantial uncertainty as to the assets and liabilities and client money or investment instruments of the said investment limited partnership or has substantially impeded its orderly winding up,

the court, on the application of the liquidator or the Bank or any creditor or limited partner may, if it thinks it proper to do so, declare that any one or more of the officers or former officers or both of the general partner who is or are responsible for the contravention shall be personally liable, without any limitation of liability, for all, or such part as may be specified by the Court, of the debts and other liabilities of the said investment limited partnership.

(2) On the hearing of an application under *subsection (1)* of this section, the person bringing the application may give evidence or call witnesses.

(3) (*a*) Where the court makes a declaration under *subsection (1)* of this section, it may give such directions as it thinks proper for the purpose of giving effect to the declaration and in particular may make provision for making the liability of any such person under the declaration a charge on any debt or obligation due from the investment limited partnership to him, or on any mortgage or charge or any interest in any mortgage or charge on any assets of the investment limited partnership held by or vested in him or any company or other person on his behalf, or any person claiming as assignee from or through the person liable under the declaration or any company or person acting on

his behalf, and may from time to time make such further order as may be necessary for the purpose of enforcing any charge imposed under this subsection.

(*b*) In *paragraph (a)* of this subsection "assignee" includes any person to whom or in whose favour, by the directions of the person liable, the debt, obligation or mortgage was created, issued or transferred or the interest created but does not include an assignee for valuable consideration (not including consideration by way of marriage) given in good faith and without notice of any of the matters on the grounds of which the declaration is made.

(*c*) A copy of the declaration referred to in *paragraph (a)* above shall be lodged with the registrar of companies and made available for public inspection.

(4) The court shall not make a declaration under *subsection (1)* of this section in respect of a person if it considers that—

(*a*) he took all reasonable steps to secure compliance by the investment limited partnership with *section 16 (1)* or *section 25 (1)* of this Act, or

(*b*) he had reasonable grounds for believing and did believe that a competent and reliable person, acting under the supervision or control of a person who has been formally allocated such responsibility, was charged with the duty of ensuring that these sections were complied with and was in a position to discharge that duty.

(5) This section shall have effect notwithstanding that the person concerned may be liable to be prosecuted for a criminal offence in respect of the matters on the ground of which the declaration is to be made or that such person has been convicted of such an offence.

(6) In this section "officer", in relation to a general partner includes a director, a person in accordance with whose directions or instructions the directors are accustomed to act, or the secretary.

(7) If—

(*a*) (i) an investment limited partnership is being wound up and is unable to pay all of its debts and has contravened *section 16 (1)* or *section 25 (1)* of this Act, and

(ii) the court considers that such contravention has contributed to the inability of the investment limited partnership to pay all of its debts or has resulted in substantial uncertainty as to the assets and liabilities or client money and investment instruments of the investment limited partnership or has substantially impeded the orderly winding up thereof,

F88**[**every general partner of the investment limited partnership, and every officer of such a general partner,**]** who is in default shall be guilty of an offence.

(*b*) In a prosecution for an offence under this section, it shall be a defence for the person charged to show that—

(i) he took all reasonable steps to secure compliance by the investment limited partnership with *section 16 (1)* or *section 25 (1)*, or

(ii) he had reasonable grounds for believing and did believe that a competent and reliable person, acting under the supervision or control of the investment limited partnership who has been formally allocated such responsibility, was charged with the duty of ensuring that that section was complied with and was in a position to discharge that duty.

(8) F89**[**An investment limited partnership, a general partner of an investment limited partnership or an officer of such a general partner that**]** fails to take all reasonable steps to secure compliance by the investment limited partnership with the requirement of *section 16 (1)* or *section 25 (1)* of the Act or has by his own wilful act been the cause of any default by the investment limited partnership thereunder, shall be guilty of an offence:

Provided, however, that—

(*a*) in any proceedings against a person in respect of an offence under this section consisting of a failure to take reasonable steps to secure compliance by the investment limited partnership with the requirements of *section 16 (1)* or *section 25 (1)*, it shall be a defence to prove that he had reasonable grounds for believing and did believe that a competent and reliable person was charged with the duty of ensuring that those requirements were complied with and was in a position to discharge that duty, and

(*b*) a person shall not be sentenced to imprisonment for such an offence unless, in the opinion of the Court, the offence was committed wilfully.

Authorisation not a warranty by the Bank.

36.—The authorisation of an investment limited partnership by the Bank under this Act shall not constitute a warranty by the Bank as to the creditworthiness or financial standing of an investment limited partnership or its partners or custodian.

PART VI

Dissolution

Investment limited partnership not terminated by change in limited partners.

37.—(1) Subject to the provisions of *subsection (2)* and subject to any express or implied term of the partnership agreement and notwithstanding anything contained in the Act of 1890, an investment limited partnership shall not be terminated or dissolved by—

(i) a change in any one or more of the limited partners or general partners;

(ii) the assignment of the whole or part of the partnership interest of a limited partner;

F90**[**(iii) the death, incapacity, bankruptcy, removal, resignation, dissolution or winding-up of—

(I) a limited partner, or

(II) a general partner, where there is more than one general partner (and at least one general partner (that has not died and to which none of the other cases mentioned in this paragraph applies) remains);**]**

(iv) any one or more of the limited partners or the general partners granting a mortgage or charge or other form of security interest over the whole or part of its partnership interest;

(v) a sale, exchange, lease, mortgage, pledge or other transfer of any assets of the investment limited partnership.

(2) Notwithstanding the provisions of *subsection (1)* and notwithstanding any express or implied term of the partnership agreement to the contrary and subject to *subsection (3)*—

(*a*) the death, incapacity, retirement, bankruptcy, removal, resignation, insolvency, dissolution or winding-up of the sole or last remaining general partner, or

(*b*) the withdrawal of the authorisation of the investment limited partnership,

F91**[**shall cause, at such time and in accordance with such process as stands specified by the Bank for the purpose of this subsection, the dissolution of the investment limited partnership**]**.

(3) If within F92**[**such period as stands specified by the Bank for the purpose of this subsection following the date of dissolution of an investment limited partnership, being a dissolution due to the circumstances specified in *subsection (2)(a)*,**]** the limited partners unanimously elect one or more new general partners who shall be approved by the Bank, the business of the investment limited partnership shall not be required to be wound up, but may be resumed and continued as provided for in the partnership agreement.

Notice of dissolution.

38.—(1) An investment limited partnership shall not be dissolved by an act of the partners unless a notice of dissolution is signed by a general partner F93**[**and delivered to the Bank.**]**

(2) In the event of dissolution of an investment limited partnership, its affairs shall be wound up forthwith by the general partners in accordance with the provisions of the partnership agreement unless the court otherwise orders on the application of a partner or creditor.

(3) Part X of the Companies Act, 1963 shall apply to the winding-up of an investment limited partnership by the court as it would to an unregistered company irrespective of the number of partners and provided that a limited partner shall not be a member for the purposes of section 345 (5) (*b*) or (*c*) of that Act except in respect of debts for which the limited partner is liable under *section 6 (2)* or *12 (4)*.

(4) Where an investment limited partnership is, by the terms of the partnership agreement, for a fixed period of time, the investment limited partnership shall be deemed to be dissolved upon the expiry of that period, F94**[**...**]** and upon dissolution as aforesaid, F95**[**such of the one or more general partners, and such of the one or more limited partners, as hold themselves out as conducting or purporting to conduct the business of the investment limited partnership shall be liable for the debts and obligations purportedly incurred on behalf of the investment limited partnership thereafter**]**.

PART VII

Miscellaneous

Offences.

39.—Where an investment limited partnership contravenes—

(*a*) any of the provisions of this Act, or

(*b*) any regulations made in relation thereto under this Act, or

(*c*) any condition in relation to its authorisation or business imposed by the Bank,

F96**[**each of the following who is in default, namely—

(i) a general partner, and

(ii) any limited partner who, at the time of the contravention, purported to take part in the conduct of the business of the investment limited partnership,

shall be guilty of an offence (but this section does not apply in respect of a contravention to which *section 13* applies).**]**

Penalties.

40.—A person guilty of an offence under this Act shall be liable—

(*a*) on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment, or

(*b*) on conviction on indictment to a fine not exceeding £500,000 or to imprisonment for a term not exceeding fifteen years or to both such fine and imprisonment,

and, if the contravention in respect of which he is convicted of an offence under this Act is continued after the conviction, he shall be guilty of a further offence on every day on which the contravention continues and for each such offence he shall be liable on summary conviction to a fine not exceeding £1,000 or on conviction on indictment, to a fine not exceeding £500,000.

Offence by body corporate and bringing of proceedings.

41.—(1) Where an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or approval of, or to have been facilitated by, any wilful neglect on the part of any person being a director, manager, secretary, member of any committee or management or other controlling authority of such body, that person shall also be guilty of an offence.

(2) Summary proceedings in relation to an offence under this Act may be brought and prosecuted by the Director of Public Prosecutions or the Bank.

(3) F97**[**...**]**

Hearing of proceedings other than in public.

42.—In any application under this Act, the court may where it is satisfied that because of the nature or circumstances of the application, or otherwise in the interests of justice that it is desirable, order that the whole or any part of proceedings under this Act, may be heard otherwise than in public.

F98**[**Power of court to grant relief by way of indemnification.

42A. (1) This section applies to any case in which a provision (the '"relevant provision") of *section 13*, *16*, *24* or *31* requires a person specified in the provision (the "specified person") to indemnify a person in respect of any loss referred to in the relevant provision suffered by the latter.

(2) In a case to which this section applies, where, on application by any person to the appropriate court, that court is satisfied that the applicant has suffered loss referred to in the relevant provision, the court may make an order requiring the specified person to pay to the applicant such amount as the court determines will indemnify the applicant in respect of that loss.

(3) In *subsection (2)*, "appropriate court" means—

(*a*) in a case where the following apply—

(i) the specified person has been convicted of an offence under the relevant provision in respect of the default to which the application relates, and

(ii) the total of the following amounts, namely, the amount of the estimated cost of complying with the order to which the application relates and the amount of the fine that has been imposed on the specified person in respect of that offence, does not exceed €5,000,

the District Court before which the specified person has been convicted of that offence,

(*b*) in a case where no prosecution has been brought, and none is pending, against the specified person under the relevant provision (in respect of the default to which the application relates) and the estimated cost of complying with the order to which that application relates does not exceed €15,000,the District Court, or

(*c*) in a case where either—

(i) the circumstance specified in *subparagraph (i)* of *paragraph (a)* applies but the total of the amounts referred to in *subparagraph (ii)* of that paragraph exceeds €5,000, or

(ii) the circumstance specified in *paragraph (b)* applies but the estimated cost of complying with the order to which the application relates exceeds €15,000,

the Circuit Court.

(4) If, in relation to an application under *subsection (2)* to the District Court (being an application to which *subparagraphs (i)* and *(ii)* of *subsection (3)(a)* apply), that court during the hearing of the application becomes of opinion that the total of the amounts referred to in *subsection (3)(a)(ii)* will exceed €5,000, it may, if it so thinks fit, transfer the application to the Circuit Court.

(5) If, in relation to an application under *subsection (2)* to the District Court (being an application to which *subsection (3)(b)* applies), that court during the hearing of the application becomes of opinion that the estimated cost of complying with the order to which the application relates will exceed €15,000, it may, if it so thinks fit, transfer the application to the Circuit Court.

(6) An application under *subsection (2)* to—

(*a*) the District Court shall be made to the judge of the District Court for the District Court district in which the principal place of business of the specified person is situate, but this paragraph shall not apply where *subsection (3)(a)* applies in the matter, and

(*b*) the Circuit Court shall be made to the judge of the Circuit Court for the circuit in which the principal place of business of the specified person is situate.**]**

Law of other states.

43.—In any proceedings involving a limited partnership established under, or by its terms governed by, the law of another state, the liability of the partners, its organisation and internal affairs shall be determined according to the law of that state.

Report by Bank.

44.—It shall be the duty of the Bank to prepare and submit a report to the Minister, within six months after the expiration of every year, in relation to the exercise of its functions under this Act, which report the Minister shall lay before both Houses of the Oireachtas as soon as possible after receipt thereof.

Expenses.

45.—F99**[**(1)**]** The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

F99**[**(2) The Bank shall not provide any funds from its own resources, other than from those resources provided to it under *subsection (3)*, to defray expenses of the Bank incurred by it in the performance of the functions under *sections 49* to *59* (in *subsection (3)* referred to as "expenses of the Bank associated with its functions under *sections 49* to *59*").

(3) The Central Bank Commission shall make regulations under section 32D of the Central Bank Act 1942 prescribing levies (in *subsection (4)* referred to as the "dedicated levies") to be paid by investment limited partnerships, and the moneys received by the Bank by way of such levies shall be used by it to defray expenses of the Bank associated with its functions under *sections 49* to *59*.

(4) Where—

(*a*) in any year, the Bank reasonably apprehends that it will be unable to defray all of the expenses of the Bank, arising in that year, associated with its functions under *sections 49* to *59* from moneys received by it by way of the dedicated levies, or

(*b*) notwithstanding the existence of the dedicated levies and, apart from the circumstance referred to in *paragraph (a)*, for any reason there is an insufficiency in any year of moneys available to the Bank to defray all of its expenses, arising in that year, associated with the foregoing functions,

the Minister shall, on the written request of the Bank, advance to the Bank such sums as he or she thinks proper to enable the Bank to defray all of its expenses, arising in that year, associated with the foregoing functions.

(5) The payments of sums referred to in *subsection (4)* shall be made on such terms as to repayment, interest and other matters as may be determined by the Minister after consulting the Bank.

(6) All moneys from time to time required by the Minister to meet sums which may become payable by him or her under *subsection (4)* shall be advanced out of the Central Fund or the growing produce thereof.**]**

F100**[**Duty to keep and maintain a beneficial ownership register.

46. (1) The general partner of an investment limited partnership shall keep and maintain a register (which shall be known, and is in this Act referred to, as a "beneficial ownership register") in which there shall be entered by it the information referred to in *section 27A(1)(a)* and *(b)* and *(2)*.

(2) A general partner that fails to comply with *subsection (1)* shall be guilty of an offence.

(3) If—

(*a*) the name of any individual is, without sufficient cause, entered in or omitted from an investment limited partnership's beneficial ownership register, or

(*b*) default is made or unnecessary delay takes place in entering in an investment limited partnership's beneficial ownership register the fact that an individual has ceased to be a beneficial owner of it,

the individual aggrieved or any other interested party may apply to the court for rectification of the register.

(4) Where an application is made under *subsection (3)*, the court may either refuse the application or may order rectification of the beneficial ownership register and payment by the investment limited partnership of compensation for any loss sustained by any party aggrieved.

(5) On such an application, the court may—

(*a*) decide any question as to whether the name of any person who is a party to the application should or should not be entered in or omitted from the beneficial ownership register, and

(*b*) more generally, decide any question necessary or expedient to be decided for rectification of the beneficial ownership register.

(6) The reference in this section to "any other interested party" is a reference to any other individual who is a beneficial owner of the investment limited partnership.**]**

F101[Discharge of initial central filing obligation — construction of references to that expression in *sections 48* to *59*.

47. A reference in *sections 48* to *59* to the discharge by a general partner of its initial central filing obligation is a reference to the delivery by the general partner of information to the Registrar in compliance with *section 51(1)* or *(2)*.**]**

F102[Delivery of information under *sections 49* to *52*: delivery may be effected by persons external to general partner (as well as by officers or employees of it).

48. (1) This section applies in a case in which a general partner of an investment limited partnership is a body corporate.

(2) The provision made by *subsection (3)* is in addition to the general law whereby a general partner acting through an officer or employee of the general partner may discharge an obligation referred to in this section.

(3) An obligation imposed on a general partner of an investment limited partnership by any of *sections 49* to *52* to deliver information to the Registrar may be discharged by a person, who is not an officer or employee of the general partner, acting on the general partner's behalf.

(4) *Section 53* makes provision as respects certain information to be delivered to the Registrar where the obligation concerned is discharged on behalf of the general partner by a person acting as mentioned in *subsection (3)*.

(5) *Section 51(6)* applies to the delivery by a general partner of an investment limited partnership of information irrespective of whether the person who delivers the information is an officer or employee of the general partner or a person acting as mentioned in *subsection (3)*.**]**

F103[Registrar of Beneficial Ownership of Investment Limited Partnerships.

49. (1) There shall, for the purposes of this Act, be a registrar to be known as the "Registrar of Beneficial Ownership of Investment Limited Partnerships", and in this Act referred to as the "Registrar".

(2) The Bank shall be the Registrar.**]**

F104[Establishment and maintenance of central register.

50. (1) There is, by virtue of this section, established a register which shall be known as the "Central Register of Beneficial Ownership of Investment Limited Partnerships" and is in this Act referred to as the "central register".

(2) The central register shall be maintained by the Registrar; the information required by *sections 51* to *59* to be delivered or submitted to the Registrar shall be entered in that register by the Registrar and that register shall be kept in such form as the Registrar considers appropriate.

(3) The provision made by *subsection (2)* as respects entry of information in the central register is subject to *subsection (5)* of *section 52* (which prohibits disclosure of a PPS number).**]**

F105[Obligation of general partner to deliver beneficial ownership information to Registrar and related obligations of designated person where certain discrepancies discovered.

51. (1) A general partner of an investment limited partnership, being a partnership that has been formed before the commencement of section 39 of the Investment Limited Partnerships (Amendment) Act 2020, shall deliver the information specified in *section 52* to the Registrar within 6 months from such commencement.

(2) A general partner of an investment limited partnership, being a partnership that has been formed on or after the commencement of section 39 of the Investment Limited Partnerships (Amendment) Act 2020, shall, within 6 months from the date of its formation, deliver the information specified in *section 52* to the Registrar in such manner as the Registrar determines.

(3) Where the following conditions are satisfied (and whether in the circumstances of the designated person taking the measures referred to in *section 27A(7)* or otherwise)—

(*a*) any of the particulars, as referred to in *section 27A(1)(a)* and *(b)*, contained in the beneficial ownership register of an investment limited partnership come to the knowledge of a designated person, and

(*b*) the designated person forms the opinion that there is a discrepancy between the particulars referred to in *paragraph (a)* and the information in the central register (on referring himself or herself to the information in the central register as it relates to that investment limited partnership),

then the designated person shall deliver, in a timely manner, to the Registrar, in such manner as the Registrar determines, notice of that opinion, specifying the particulars as respects which the foregoing discrepancy exists.

(4) On receipt of a foregoing notice, the Registrar shall—

(*a*) if the Registrar considers it appropriate to do so, make an entry in the relevant place in the central register which states that the notice has been received and specifies the particulars as respects which the foregoing discrepancy exists, and

(*b*) serve a notice on the general partner of the investment limited partnership concerned which—

(i) states that the foregoing notice has been received, and

(ii) specifies the particulars as respects which the foregoing discrepancy exists, and requests the general partner of the investment limited partnership to deliver to the Registrar, within a period specified in the notice and in such manner as the Registrar determines—

(I) a submission as to why the general partner of the investment limited partnership considers the opinion of the designated person concerned not to be well founded, or

(II) if the general partner of the investment limited partnership considers the opinion of the designated person concerned to be well founded, such amended particulars (for entry in the central register) as are required where the general partner is satisfied that the delivery of such is the appropriate means by which the discrepancy can be resolved,

and such a request shall be complied with by the general partner of the investment limited partnership accordingly.

(5) None of the following—

(*a*) an opinion stated in a notice delivered under *subsection (3)* by a designated person to the Registrar (nor the specification in such a notice of the particulars as respects which the discrepancy concerned exists),

(*b*) any act done by the Registrar, as mentioned in *subsection (4)*, on foot of the receipt by the Registrar of a notice delivered under *subsection (3)* and, in particular, any entry made in the central register by the Registrar on foot of such receipt,

(*c*) a submission delivered under *subsection (4)(b)(ii)(I)* to the Registrar by a general partner,

shall, of itself, be regarded as constituting defamatory matter.

(6) The means specified in *subsection (7)*, and no other means, shall be used by a general partner of an investment limited partnership to deliver, under this section

or any of *sections 52* to *59*, information to the Registrar. If such means are not used to deliver the information concerned, the fact of the receipt by the Registrar of the particular information shall not constitute compliance with the requirement concerned of the section in question.

(7) The means referred to in *subsection (6)* are those that are provided for under the Electronic Commerce Act 2000.

(8) The reference in this section to the use of the means provided for under the Electronic Commerce Act 2000 is a reference to their use in a manner that complies with any requirements of the Registrar of the kind referred to in sections 12(2)(*b*) and 13(2)(*a*) of that Act.**]**

F106**[**Information which shall be delivered to Registrar.

52. (1) The following is the information referred to in *section 51(1)* or *(2)* that shall be delivered by a general partner of an investment limited partnership to the Registrar:

(*a*) the name, date of birth, nationality and residential address of each beneficial owner of the investment limited partnership;

(*b*) a statement of the nature and extent of the interest held, or the nature and extent of control exercised by, each such beneficial owner,

and *section 54* makes provision for occasions, subsequent to the discharge by the general partner of its initial central filing obligation, on which information shall be delivered by it to the Registrar.

(2) In addition to what is provided in *subsection (1)*, there shall be delivered to the Registrar by the general partner of the investment limited partnership—

(*a*) for the purpose of verification of the information delivered under *section 51(1)* or *(2)* and without prejudice to *paragraph (b)*, the PPS number of each beneficial owner to whom such a number has been assigned, or

(*b*) such information as stands determined by the Registrar for the purposes of this section.

(3) In addition to what is provided in *subsections (1)* and *(2)*, where the obligation imposed on a general partner of an investment limited partnership by *section 51(1)* or *(2)* is discharged by its acting through an officer or employee of the general partner, there shall be delivered to the Registrar—

(*a*) the name, address, phone number and e-mail address of the officer or employee for correspondence purposes, and

(*b*) particulars as to the capacity in which the officer or employee is acting.

(4) The Registrar shall delete from the central register information entered in it in relation to an investment limited partnership if 10 years have elapsed from the date on which the final distribution is made under the investment limited partnership (should such occur) and, as soon as may be after that deletion, the Registrar shall destroy that information.

(5) As respects a PPS number of a beneficial owner that has been delivered under *subsection (2)* to the Registrar—

(*a*) the Registrar shall not disclose that number, and

(*b*) that number shall be stored securely by the Registrar.

(6) The Registrar shall, as respects any information that has been received under *subsection (3)* and recorded by the Registrar, destroy the information as soon as may be after 10 years have elapsed from the date on which the final distribution is made (should such occur) under the investment limited partnership to which it relates.

(7) *Subsections (2)* to *(6)* shall, with any necessary modifications, apply to amended particulars that are to be, or have been delivered, under *section 51(4)(b)(ii)(II)* as they apply to information that is to be, or has been, delivered under *section 51(1)* or *(2)*.**]**

F107**[**Information to be provided by presenter.

53. (1) This section applies where the information specified in *section 51(1)* or *(2)* is delivered to the Registrar by a person (in this section referred to as the "presenter") acting on behalf of the general partner concerned as mentioned in *section 48(3)*.

(2) Where this section applies, the following information shall also be delivered by the presenter to the Registrar:

(*a*) the presenter's name, address, phone number and e-mail address;

(*b*) particulars as to the capacity in which the presenter is acting;

(*c*) if the presenter is not an individual, the name, address, phone number and e-mail address of an individual for correspondence purposes.

(3) The Registrar shall, as respects any information that has been received under *subsection (2)* and recorded by the Registrar, destroy the information as soon as may be after 10 years have elapsed from the date on which the final distribution is made (should such occur) under the investment limited partnership to which it relates.**]**

F108**[**Duty to keep information in beneficial ownership register and central register aligned and up to date.

54. (1) The purpose of this section is to require that any changes that occur in the information contained in an investment limited partnership's beneficial ownership register be reflected by a corresponding change being made in the central register; accordingly there is imposed on the general partner of an investment limited partnership by this section an obligation — referred to in this section as the 'follow up obligation' - to deliver information to the Registrar so as to allow any such change to be reflected in the central register.

(2) The provisions of this section shall have effect in relation to an investment limited partnership following the discharge by the general partner of the investment limited partnership of its initial central filing obligation (and in *subsection (3)* the time on which that obligation is so discharged is referred to as the "relevant time").

(3) Where at any time, subsequent to the relevant time, the obligation referred to in *subsection (4)* falls to be discharged by a general partner of the investment limited partnership, then there is also imposed on the general partner, by this section, the follow up obligation specified in *subsection (5)*.

(4) The first-mentioned obligation in *subsection (3)* of the general partner is the obligation to—

(*a*) enter any information in the investment limited partnership's beneficial ownership register, or

(*b*) amend or delete any information in that register,

whether by virtue of its duty under *section 27A(1)* to hold accurate and current information regarding the investment limited partnership's beneficial ownership or any provision of *section 27B*, *27C*, *28*, *28A* or *28B*.

(5) The general partner's follow up obligation is to deliver to the Registrar, as appropriate—

(*a*) the same information as that which (as mentioned in *subsection (4)(a)*) the general partner is required to enter in the investment limited partnership's beneficial ownership register, or

(*b*) the appropriate information that will enable the Registrar to make the same amendment or deletion of information in the central register as that which

(as mentioned in *subsection (4)(b)*) the general partner is required to make in the investment limited partnership's beneficial ownership register,

and the follow up obligation shall be discharged within 14 days from the date on which the first-mentioned obligation in *subsection (3)* falls to be discharged by the general partner.

(6) *Section 52(2)* to *(7)* and, as the case may be, *section 53* shall apply in a case where information is delivered to the Registrar under subsection (5) as they apply in a case where information is delivered to the Registrar under *section 51(1)*, *(2)* or *(3)*.**]**

F109**[**Unrestricted access to beneficial ownership information in central register.

55. (1) Subject to *subsection (2)*, the following shall have the right to inspect the central register—

(*a*) a member of the Garda Síochána, not below the rank of inspector, who is engaged in the prevention, detection, investigation or analysis of possible money laundering or terrorist financing,

(*b*) a member of FIU Ireland within the meaning of Part 4 of the Act of 2010,

(*c*) an officer of the Revenue Commissioners, holding a position not below that of Higher Executive Officer,

(*d*) an officer of the Criminal Assets Bureau, holding a rank not below the rank of inspector in the Garda Síochána, or holding a position not below that of Higher Executive Officer.

(2) The right referred to in *subsection (1)* shall not be exercised—

(*a*) by a member of the Garda Síochána referred to in *paragraph (a)* of that subsection, unless he or she has been authorised to exercise the right by a member of the Garda Síochána, not below the rank of superintendent,

(*b*) by a member of FIU Ireland, unless he or she has been authorised to exercise the right by a member of the Garda Síochána, not below the rank of superintendent,

(*c*) by an officer of the Revenue Commissioners referred to in *paragraph (c)* of that subsection, unless he or she has been authorised to exercise the right by an officer of the Revenue Commissioners, holding a position not below that of Principal Officer, or

(*d*) by an officer of the Criminal Assets Bureau referred to in *paragraph (d)* of that subsection, unless he or she has been authorised to exercise the right by a member of the Garda Síochána, not below the rank of superintendent.

(3) Subject to *subsection (4)*, a member, a member of staff or an officer of a competent authority who is engaged in the prevention, detection or investigation of possible money laundering or terrorist financing shall have the right to inspect the central register.

(4) The right referred to in *subsection (3)* shall not be exercised—

(*a*) by—

(i) a member of staff of the Bank,

(ii) an officer of the Minister for Justice and Equality,

(iii) a member or member of staff of the Property Services Regulatory Authority, or

(iv) a member or member of staff of the Legal Services Regulatory Authority,

(each of which or whom is referred to in this paragraph as a "relevant competent authority") unless he or she holds a position not below that of Higher Executive Officer and has been authorised to exercise the right by a member or member of staff or, as the case may be, an officer of the relevant competent authority concerned, holding a position not below that of Principal Officer, or

(*b*) by a member or member of staff of—

(i) the Law Society of Ireland,

(ii) the General Council of the Bar of Ireland, or

(iii) a designated accountancy body (within the meaning of Part 4 of the Act of 2010),

unless he or she is a person designated by the President of the Law Society of Ireland, the chairperson of the General Council of the Bar of Ireland or the chief executive of (or a person holding an equivalent position in) the designated accountancy body, as the case may be, to be a person authorised for the purposes of *subparagraph (i)*, *(ii)* or *(iii)*, as appropriate, to exercise the right.

(5) On there being made of the Registrar a request for inspection, under any of *subsections (1)* to *(4)*, of the central register, the Registrar shall afford the maker of the request access, in a timely manner, to the register.

(6) The Registrar shall, neither during the taking of the steps to afford the maker the access referred to in *subsection (5)*, nor afterwards, alert the beneficial owners of any investment limited partnership concerned to the fact of such access having been afforded.

(7) In *subsection (6)*, "any investment limited partnership concerned" means any investment limited partnership to which the information in the central register, the subject of the inspection concerned, relates.

(8) Each of the following:

(*a*) the Garda Síochána;

(*b*) the Revenue Commissioners;

(*c*) a competent authority;

(*d*) the Criminal Assets Bureau,

may disclose the information in the central register to any corresponding competent authority of another Member State (a "corresponding authority"); in the event of there being a request made of a body or other person referred to in any of *paragraphs (a)* to *(d)* by a corresponding authority for disclosure of such information, the request shall be complied with in a timely manner.

(9) No fee shall be charged to a corresponding authority for the disclosure of the information in the central register.**]**

F110**[**Restricted access to beneficial ownership information in central register.

56. (1) When—

(*a*) a general partner of an investment limited partnership enters into an occasional transaction with a designated person, or forms a business relationship with a designated person, or

(*b*) a designated person is taking customer due diligence measures in accordance with Part 4 of the Act of 2010 in relation to an investment limited partnership,

the designated person shall, subject to *subsection (6)*, have a right of access to the following information in the central register that relates to the investment limited partnership:

(i) the name, the month and year of birth and the country of residence and nationality of each beneficial owner of it;

(ii) a statement of the nature and extent of the interest held, or the nature and extent of control exercised, by each such beneficial owner,

and that access shall be afforded in a timely manner.

(2) The information obtained by a designated person by means of the access to the central register afforded under *subsection (1)* shall not be relied upon exclusively by the designated person to fulfil the designated person's duty to apply customer due diligence measures under Part 4 of the Act of 2010 (which duty shall be fulfilled by using a risk-based approach).

(3) Any person may, subject to *subsection (6)*, request in writing access to the following information in the central register that relates to any investment limited partnership:

(*a*) the name, the month and year of birth and the country of residence and nationality of each beneficial owner of it;

(*b*) a statement of the nature and extent of the interest held, or the nature and extent of control exercised, by each such beneficial owner.

(4) Any person may, subject to *subsection (6)*, request in writing access to the following information in the central register that relates to any investment limited partnership which holds or owns a controlling interest in any corporate or other legal entity incorporated outside the European Union, through direct or indirect ownership, including through bearer shareholdings, or through control via other means:

(*a*) the name, the month and year of birth and the country of residence and nationality of each beneficial owner of the investment limited partnership;

(*b*) a statement of the nature and extent of the interest held, or the nature and extent of control exercised, by each such beneficial owner of the investment limited partnership,

and that access shall be afforded in a timely manner.

(5) The Data Protection Act 2018 shall apply to the access that the Registrar affords to a designated person and any member of the public in respect of the information in the central register that relates to an investment limited partnership.

(6) Where a designated person or a member of the public seeks to have access to, or to inspect, any information in the central register so far as such information relates to a minor who is a beneficial owner of an investment limited partnership, the Registrar shall request the designated person or member of the public to provide, in writing, to the Registrar a summary of the grounds on which he or she considers it is in the public interest that that information be disclosed to him or her and—

(*a*) if the designated person or the member of the public refuses or fails to comply with that request, or

(*b*) unless the Registrar, having considered such a written summary provided to the Registrar, is of the opinion that there are substantial grounds for the contention of the foregoing person that it is in the public interest that the information be disclosed to him or her,

the designated person or member of the public shall not be permitted by the Registrar to have access to, or to inspect, any information in the central register so far as such information relates to the minor concerned.

(7) In *subsection (1)*, "occasional transaction" has the same meaning as it has in *section 27A(7)*.**]**

F111**[**Obligations of competent authorities to report certain discrepancies to Registrar.

57. (1) If—

(*a*) any of the following:

(i) the Garda Síochána;

(ii) the Revenue Commissioners;

(iii) a competent authority;

(iv) the Criminal Assets Bureau,

forms the opinion that there is a discrepancy between the information in the central register and the beneficial ownership information, as it relates to any investment limited partnership, available to, as the case may be, the Garda Síochána, the Revenue Commissioners or other foregoing authority or bureau (each of which is referred to in this section as a "relevant person"), and

(*b*) to the extent that the doing of the following does not interfere unnecessarily with the performance of the relevant person's functions,

then the relevant person shall deliver, in a timely manner, to the Registrar, in such manner as the Registrar determines, notice of that opinion, specifying the particulars as respects which the foregoing discrepancy exists.

(2) On receipt of a foregoing notice, the Registrar shall—

(*a*) if the Registrar considers it appropriate to do so, make an entry in the relevant place in the central register which states that the notice has been received and specifies the particulars as respects which the foregoing discrepancy exists, and

(*b*) serve a notice on the general partner of the investment limited partnership concerned which—

(i) states that the foregoing notice has been received, and

(ii) specifies the particulars as respects which the foregoing discrepancy exists, and requests the general partner to deliver to the Registrar, within a period specified in the notice and in such manner as the Registrar determines—

(I) a submission as to why the general partner considers the opinion of the relevant person concerned not to be well founded, or

(II) if the general partner considers the opinion of the relevant person concerned to be well founded, such amended particulars (for entry in the central register) as are required where the general partner is satisfied that the delivery of such is the appropriate means by which the discrepancy can be resolved,

and such a request shall be complied with by the general partner accordingly.

(3) None of the following—

(*a*) an opinion stated in a notice delivered under *subsection (1)* by a relevant person to the Registrar (nor the specification in such a notice of the particulars as respects which the discrepancy concerned exists),

(*b*) any act done by the Registrar, as mentioned in *subsection (2)*, on foot of the receipt by the Registrar of a notice delivered under *subsection (1)* and, in particular, any entry made in the central register by the Registrar on foot of such receipt,

(*c*) a submission delivered under *subsection (2)(b)(ii)(I)* to the Registrar by a general partner,

shall, of itself, be regarded as constituting defamatory matter.

(4) Subsections *(2)* to *(7)* of *section 52* shall, with any necessary modifications, apply to amended particulars that are to be, or have been delivered, under *subsection (2)(b)(ii)(II)* as they apply to information that is to be, or has been, delivered under *section 51(1)* or *(2)*.**]**

F112**[**Fees may be charged for access to central register.

58. (1) The Registrar may require any of the persons referred to in *section 56(1)*, *(3)* or *(4)* to pay to the Registrar a fee of such an amount as the Registrar may determine in respect of the access afforded to the central register under *section 56(1)*, *(3)* or *(4)*.

(2) The amount of a fee required to be paid under *subsection (1)* shall not exceed the administrative cost incurred in affording access to the information concerned.**]**

F113**[**Offence for failure to comply with *section 51*, *52*, *53* or *54* and supplemental provisions.

59. (1) A general partner that fails to comply with *section 51*, *52* or *54* shall be guilty of an offence.

(2) A general partner that fails, without reasonable excuse, to comply with a request, as referred to in *subparagraph (ii)* of *subsection (4)(b)* of *section 51*, or *subparagraph (ii)* of *subsection (2)(b)* of *section 57*, contained in a notice served on it under that *subsection (4)(b)* or *(2)(b)*, as the case may be, shall be guilty of an offence.

(3) A presenter that fails to comply with *section 53* shall be guilty of an offence.

(4) A person who, in purported compliance with *section 51*, *52*, *53* or *54*, makes a statement that is false in a material particular, knowing it to be so false or being reckless as to whether it is so false, shall be guilty of an offence.

(5) A designated person who fails to comply with *section 51(3)* shall be guilty of an offence.**]**

F114**[**PART VIII

Migration-in and Migration-out of Investment Limited Partnerships**]**

F115**[**Chapter 1

*Migration-in to become an investment limited partnership***]**

F116**[**Definitions and supplemental (*Chapter 1*).

60. (1) In this Chapter—

"general partner", in relation to a migrating partnership, means the entity which acts as a general partner of the migrating partnership or performs an equivalent role to that of general partner in respect of it;

"investment limited partnership" means an investment limited partnership authorised under this Act;

"migrating partnership" means a partnership which is formed and where relevant registered under the laws of a relevant jurisdiction and which is an alternative investment fund within the meaning of Regulation 5(1) of the European Union (Alternative Investment Fund Managers) Regulations 2013;

"registration documents" has the meaning given by *section 61*;

"relevant jurisdiction", in relation to a migrating partnership, means the place, outside the State, prescribed under *subsection (2)* where the migrating partnership is formed and where relevant registered at the time of its application under *section 62*.

(2) The Minister may make regulations prescribing places, outside the State, for the purposes of the definition of "relevant jurisdiction" in *subsection (1)* where he or she is satisfied that the law of the place concerned makes provision for migrating partnerships to continue under the laws of the State or for investment limited partnerships to continue under the laws of that place in a substantially similar manner to continuations under *section 62*.**]**

F117**[**Registration documents.

61. (1) In this Chapter "registration documents", in relation to a migrating partnership, means the following documents:

(*a*) a copy, certified and authenticated in such manner as may be specified by the Bank, of the certificate of formation or registration or equivalent certificate or document issued with respect to the migrating partnership under the laws of the relevant jurisdiction;

(*b*) a copy, certified and authenticated in such manner as may be specified by the Bank, of the partnership agreement of the migrating partnership;

(*c*) a list setting out particulars in relation to each of the one or more general partners of the migrating partnership;

(*d*) a statutory declaration of a general partner of the migrating partnership made in such manner and form as may be specified by the Bank, not more than 28 days before the date on which an application is made to the Bank under *section 62*, to the effect that—

(i) the migrating partnership is, as of the date of the declaration, formed and where relevant registered under the laws of the relevant jurisdiction and that no petition or other similar proceeding to wind up or liquidate the migrating partnership has been notified to any general partner of it and remains outstanding in any place, and no order has been notified to any general partner of it or resolution adopted by it to wind up or liquidate the migrating partnership in any place,

(ii) the appointment of a liquidator or other similar person to the migrating partnership has not been notified to any general partner of it and, at the date of the declaration, no such person is acting in that capacity in any place with respect to the migrating partnership or its property or any part of its property,

(iii) the migrating partnership is not, at the date of the declaration, operating or carrying on business under any scheme, order, compromise or other similar arrangement entered into or made by any general partner of it in respect of the migrating partnership with creditors in any place,

(iv) at the date of the declaration a general partner of the migrating partnership has served notice of the proposed authorisation on the creditors of the migrating partnership,

(v) any consent or approval to the proposed authorisation in the State required by any contract entered into or undertaking given by a general partner in respect of the migrating partnership has been obtained or waived, and

(vi) the authorisation is permitted by and has been approved in accordance with the partnership agreement of the migrating partnership;

(*e*) a declaration of solvency prepared in accordance with *Chapter 3*;

(*f*) if a general partner of the migrating partnership is a body corporate, a schedule of the charges or security interests granted or created on behalf of the migrating partnership by the general partner that would, if such charges or security interests had been created or granted by a company incorporated under the Companies Act 2014 , have been registrable under Chapter 2 of Part 7 of that Act and the particulars of such charges and interests as are specified in relation to charges by section 414 of that Act;

(*g*) notification of the proposed name of the migrating partnership if different from its existing name;

(*h*) a copy of the partnership agreement which the partners of the migrating partnership have resolved to adopt, which shall be in the Irish language or the English language, which shall take effect on authorisation under *section 62* and which the general partner or, as the case may be, each general partner of the migrating partnership undertakes not to amend before authorisation without the prior approval of the Bank.

(2) If the original of any of the documents referred to in *subsection (1)* is not written in the Irish language or the English language, then "registration documents" in so far as that expression relates to such a document, means a translation of the document into the Irish language or the English language certified as being a correct translation of it by a person who is competent to so certify.**]**

F118**[**Continuation of migrating partnership.

62. (1) A general partner of a migrating partnership may apply to the Bank for the migrating partnership to be authorised under this Act as an investment limited partnership in the State by way of continuation; subject to the subsequent subsections of this section—

(*a*) such an application shall be regarded as an application under this Act for authorisation of the migrating partnership as an investment limited partnership, and

(*b*) the provisions of this Act in relation to—

(i) an application for such authorisation,

(ii) the conditions for such authorisation,

(iii) the grant of such authorisation,

(iv) all of the other requirements of this Act in respect of the authorisation of an investment limited partnership and of matters precedent and incidental to such authorisation and all of the provisions of this Act concerning an investment limited partnership that have effect on and from the grant of an authorisation in relation to it,

shall apply in respect of, as appropriate—

(I) the application referred to in this subsection or, as appropriate, the granting of the authorisation, on foot thereof, and

(II) every other matter concerning the investment limited partnership, as provided by or under this Act, on and from the grant of the authorisation.

(2) For the purposes of an application referred to in *subsection (1)*—

(*a*) the general partner concerned shall notify, in writing, the Bank of its intention to make such an application,

(*b*) the Bank, on receipt of that notification, shall request the general partner to make an application for an authorisation under *section 8* in respect of the migrating partnership,

and

(i) the consideration by the Bank of the documentation specified in *subsection (3)* shall be postponed until such time as the Bank has notified the general partner, as provided under *paragraph (ii)*, of the decision referred to in that paragraph (but this paragraph does not apply if the decision of the Bank, with regard to the relevant application, is otherwise than as stated in *paragraph (ii)* and, in the latter case, the foregoing documentation shall not be considered by it), and

(ii) the Bank, following the relevant application made to it under *section 8*, shall (where such is the decision that it has made) notify the general partner that it proposes to grant the relevant authorisation under that section.

(3) The notification under *subsection (2)* in respect of the application concerned shall be accompanied by—

(*a*) a statement, in such form as may be specified by the Bank, and signed by a general partner of the migrating partnership,

(*b*) the registration documents, and

(*c*) a statutory declaration, in such form as may be specified by the Bank, made by a solicitor engaged for this purpose by the migrating partnership, or by the general partner, and stating that the list and schedule specified in *paragraphs (c)* and *(f)*, respectively, of the definition of "registration documents" in *section 61(1)* are accurate in all material respects,

and the Bank may accept the declaration referred to in *paragraph (c)* as sufficient evidence as to the accuracy, as referred to in that paragraph, of the list and schedule concerned.

(4) *Subsection (5)* applies unless, on foot of its consideration of the documentation specified in *subsection (3)*, the Bank has grounds to doubt, as appropriate—

(*a*) the authenticity of, or

(*b*) the accuracy in any material respect of any fact stated in,

that documentation.

(5) Where this subsection applies, the Bank shall issue under *section 8(6)* a certificate of authorisation in respect of the migrating partnership following the notification to the general partner of its decision as referred to in *subsection (2)(ii)*; that certificate shall include an indication that the authorisation granted under this Act in respect of the migrating partnership is an authorisation as an investment limited partnership in the State by way of continuation.

(6) A general partner of the migrating partnership shall, as soon as may be after the certificate referred to in *subsection (5)* has been issued in respect of the migrating partnership, apply for the migrating partnership to be de-registered (if applicable or required) in the relevant jurisdiction.

(7) From the date of the issue of the certificate referred to in *subsection (5)* in respect of it, the migrating partnership shall be deemed to be an investment limited partnership authorised under this Act and shall continue for all purposes under this

Act, and the provisions of this Act shall apply to the migrating partnership, but this section does not operate—

(*a*) to create a new legal entity,

(*b*) to prejudice or affect the identity or continuity of the migrating partnership as previously formed and where relevant registered under the laws of the relevant jurisdiction for the period that the migrating partnership was formed and where relevant registered under the laws of the relevant jurisdiction,

(*c*) to affect any contract made, resolution passed or any other act or thing done in relation to the migrating partnership during the period that the migrating partnership was so formed and where relevant registered,

(*d*) to affect the rights, authorities, functions and liabilities or obligations of the migrating partnership or any other person, or

(*e*) to render defective any legal proceedings by or against the migrating partnership.

(8) Without prejudice to the generality of *subsection (7)*—

(*a*) the failure of a general partner of a migrating partnership to send to the Bank the particulars of a charge or security interest created before the date of issue of the certificate referred to in *subsection (5)* shall not prejudice any rights which any person in whose favour the charge was made or security interest created may have under it, and

(*b*) any legal proceedings that could have been continued or commenced by or against the migrating partnership or any general partner of it in respect of that migrating partnership before the date of issue of that certificate may, notwithstanding the issue of that certificate, be continued or commenced by or against the migrating partnership or a general partner of it in respect of that migrating partnership after the date of issue of that certificate.**]**

F119**[**Supplementary provision in relation to *section 62*.

63. (1) A general partner of the migrating partnership shall notify the Bank, within 3 days after the date of de-registration in the relevant jurisdiction, of that de-registration in such manner and, where relevant, form as may be specified by the Bank.

(2) If there is any material change in any of the information contained in the statutory declaration specified in *paragraph (d)* of the definition of 'registration documents' in *section 61(1)* after the date of the declaration and before the date of the issue of the certificate referred to in *section 62(5)*, the general partner who made that statutory declaration, and any other general partner who becomes aware of that material change, shall forthwith deliver a new statutory declaration to the Bank relating to the change.

(3) If a general partner of the migrating partnership fails to comply with any provision of *section 62* or this section, the Bank may give notice to the general partner that, unless it rectifies the failure within 30 days after the date of the giving of notice and confirms that it has rectified the failure, the Bank may, with view to exercising its powers under *section 29(1)(c)* to revoke the authorisation of the migrating partnership, publish a notice, as referred to in *subsection (4)*, that states its intention to so revoke the migrating partnership's authorisation and indicates, in brief terms, the grounds on which it will rely for such revocation.

(4) If the failure mentioned in *subsection (3)* is not rectified within 30 days after the date of the giving of the notice referred to in that subsection, the Bank may publish a notice stating that, at the expiration of 1 month after the date of that notice, the Bank, unless the matter is resolved, may exercise its powers under *section 29(1)(c)* to revoke the authorisation of the migrating partnership and indicating, in brief terms, the grounds on which it will rely for such revocation.

(5) At the expiration of the time mentioned in the notice the Bank may, unless cause to the contrary is previously shown by the migrating partnership, revoke the authorisation of the migrating partnership under *section 29(1)(c)*.

(6) The provision made by this section imposing requirements—

(*a*) in relation to a proposed revocation under *section 29(3)* of an authorisation, as concerns the giving of a particular notice to a general partner of a migrating partnership, or

(*b*) in relation to such a proposal, as concerns publishing a particular notice as respects the proposal,

shall not be construed as imposing like requirements in cases generally of the proposed exercise of the power of revocation under *section 29(3)* (which cases shall, instead, be governed by the general law regarding procedural fairness).**]**

F120**[**Chapter 2

*Revocation of authorisation following migration-out***]**

F121**[**Definitions and supplemental (*Chapter 2*)

64. (1) In this Chapter—

"exiting partnership" means an investment limited partnership that is the subject of the application under *section 65* to have its authorisation revoked;

"relevant jurisdiction", in relation to an exiting partnership, means the place, outside the State, prescribed under *subsection (2)* in which the partnership proposes to be registered;

"transfer documents", in relation to an exiting partnership, means the following documents:

(*a*) a statutory declaration, in such form as may be specified by the Bank, of a general partner of the partnership made not more than 28 days before the date on which the application is made to the Bank to the effect that—

(i) the partnership will, upon registration, continue as a partnership under the laws of the relevant jurisdiction,

(ii) no petition or other similar proceeding to wind up or liquidate the partnership has been notified to any general partner of it and remains outstanding in any place, and no order has been notified to any general partner of it or resolution adopted to wind up or liquidate the applicant in any place,

(iii) the appointment of a liquidator or other similar person to the partnership has not been notified to any general partner of it and, at the date of the declaration, no such person is acting in that capacity in any place with respect to the partnership or its property or any part of its property,

(iv) the partnership is not, at the date of the declaration, operating or carrying on business under any scheme, order, compromise or other similar arrangement entered into or made by any general partner of it in respect of the partnership with creditors in any place,

(v) the application for revocation of the authorisation of the partnership is not intended to defraud persons who are, at the date of the declaration, creditors of the partnership,

(vi) any consent or approval to the proposed revocation required by any contract entered into or undertaking given by any general partner of it in respect of the partnership has been obtained or waived, and

(vii) the revocation is permitted by the partnership agreement of the partnership;

(*b*) a declaration of solvency by a general partner in respect of the exiting partnership prepared in accordance with the provisions of *Chapter 3*;

(*c*) a copy of a resolution of the partners of the exiting partnership passed in accordance with the terms of the partnership agreement that approves the proposed revocation of the partnership's authorisation and the migration of the partnership to the relevant jurisdiction.

(2) The Minister may make regulations prescribing places, outside the State, for the purposes of the definition of "relevant jurisdiction" in *subsection (1)*, where he or she is satisfied that the law of the place concerned makes provision for partnerships that are substantially similar to exiting partnerships to continue under the laws of the State in a substantially similar manner to continuations under *section 62* or for investment limited partnerships to continue under the laws of that place.**]**

F122**[**Revocation of authorisation of investment limited partnerships when continued under law of place outside the State.

65. (1) A general partner which proposes its investment limited partnership to be registered in a relevant jurisdiction by way of continuation as a partnership may apply to the Bank for the authorisation of that investment limited partnership to be revoked under *section 29(2)*.

(2) Where an application is made under *subsection (1)*, the Bank shall not revoke the authorisation of the investment limited partnership, the subject of the application, unless it is satisfied that all of the requirements of this Act in respect of that revocation and of matters precedent and incidental to that revocation have been complied with and, in particular, but without prejudice to the generality of the foregoing, it is satisfied that—

(*a*) the general partner of the partnership has delivered to the Bank an application for the purpose, in such form as may be specified by the Bank and signed by the general partner, together with the transfer documents,

(*b*) the general partner has paid in respect of the partnership any levies or fees prescribed under section 32D or 32E of the Central Bank Act 1942 which are due,

(*c*) the partnership complies with any conditions that the Bank may impose on the partnership, and

(*d*) the general partner of the partnership has delivered to the Bank notice of any proposed change in the name and of proposed registered office or agent for service of process of the partnership in the relevant jurisdiction.

(3) An application under this section shall be accompanied by a statutory declaration, in such form as may be specified by the Bank, made by a solicitor engaged for this purpose by the general partner of the partnership and stating that the requirements mentioned in *subsection (2)* have been complied with, and the Bank may accept such a declaration as sufficient evidence of compliance.

(4) Any partner of an investment limited partnership who complains that—

(*a*) the procuring, by a general partner, any other partner or any person connected with the management of the partnership, of the passing of the resolution referred to in *paragraph (c)* of the definition of 'transfer documents' in *section 64(1)*, or

(*b*) the taking of any steps on foot thereof for the migration of the partnership to the relevant jurisdiction,

constitutes conduct that—

(i) is oppressive to him or her or any of the persons who are partners of the investment limited partnership (including himself or herself), or

(ii) is in disregard of his or her or their interests as partners,

may apply to the court for an order under *subsection (5)*.

(5) If, on an application under *subsection (4)*, the court is of opinion that either of the matters referred to in *paragraphs (a)* and *(b)* of that subsection has resulted in conduct that falls within *paragraph (i)* or *(ii)* of that subsection the court may, with a view to bringing to an end the matters complained of, make such order or orders as it thinks fit.

(6) The orders which the court may so make include an order—

(*a*) directing or prohibiting any act or cancelling or varying any transaction (including cancellation of the revocation by the Bank of the partnership's authorisation),

(*b*) for the purchase of the partnership interest of the partner who has made the application under *subsection (4)* by other partners of the partnership, and

(*c*) for the payment by the partnership of compensation to the partner who has made the application under *subsection (4)*.**]**

F123**[**Chapter 3

*Declaration of solvency***]**

F124**[**Definitions (*Chapter 3*)

66. In this Chapter "migrating partnership" and "exiting partnership" have the meaning given, respectively, to them by *Chapters 1* and *2*.**]**

F125**[**Statutory declaration as to solvency

67. (1) Where an application is made under *Chapter 1* or *2*, the general partner of the migrating partnership or the exiting partnership, as the case may be, who makes the application shall make a statutory declaration, in such form as may be specified by the Bank, stating that he or she has made a full inquiry into that partnership's affairs and has formed the opinion that the migrating partnership or exiting partnership, as appropriate, is able to pay its debts as they fall due.

(2) A declaration under *subsection (1)* shall have no effect for the purposes of this Chapter unless—

(*a*) it is made not more than 28 days before the date on which the application is made to the Bank,

(*b*) it contains a statement of the migrating partnership's or exiting partnership's assets and liabilities as at the latest practicable date before the date of the making of the declaration and in any event at a date not more than 3 months before the date of that making, and

(*c*) a report made by an independent person under *subsection (3)* is attached to the declaration, along with a statement by the independent person that he or she has given and has not withdrawn consent to the making of the declaration with the report attached to it.

(3) The report mentioned in *subsection (2)(c)* shall state whether, in the independent person's opinion, based on the information and explanations given to him or her, the

opinion of the general partner mentioned in *subsection (1)* and the statement of the migrating partnership's or exiting partnership's assets and liabilities referred to in *subsection (2)(b)*, are reasonable.

(4) For the purposes of *subsection (3)*, the independent person shall be a person who, at the time the report is made, is—

(*a*) in the case of an application under *Chapter 1*, qualified to be the auditor of the migrating partnership under the laws of the relevant jurisdiction, and

(*b*) in the case of an application under *Chapter 2*, qualified to be the auditor of the exiting partnership.

(5) A general partner who makes a declaration under this section without having reasonable grounds for the opinion that the migrating partnership or exiting partnership, as appropriate, is able to pay its debts as they fall due shall be guilty of an offence.

(6) Where the migrating partnership or exiting partnership is wound up within 1 year after the date on which the application is made to the Bank under *Chapter 1* or *2* and its debts are not paid or provided for in full within that year, it shall be presumed, unless the contrary is shown, that the general partner referred to in *subsection (1)* did not have reasonable grounds for his or her opinion.**]**

F126[SCHEDULE

Umbrella Investment Limited Partnerships

Definitions

1. In this Schedule—

"sub-fund" means a separate portfolio of assets maintained by a general partner of an investment limited partnership for and on behalf of one or more limited partners in accordance with the partnership agreement;

"umbrella fund" means an investment limited partnership which is divided into a number of sub-funds.

General

2. Where an investment limited partnership is established as an umbrella fund, the assets shall belong exclusively to the partners holding interests in a relevant sub-fund and shall not be used to discharge directly or indirectly the liabilities of, or claims against, any other sub-fund and shall not be available for any such purpose. The general partner may in its absolute discretion operate, establish or designate classes of interest with differing rights and obligations for accounting purposes or otherwise within the investment limited partnership.

Segregated liability of investment limited partnership sub-funds

3. (1) Notwithstanding any statutory provision or rule of law to the contrary—

(*a*) any liability incurred on behalf of or attributable to any sub-fund of an umbrella fund shall be discharged solely out of the assets of that sub-fund, and

(*b*) no umbrella fund nor any general partner, limited partner, receiver, liquidator, provisional liquidator or other person shall apply, nor be obliged to apply, the assets of any such sub-fund in satisfaction of any liability incurred on behalf of or attributable to any other sub-fund of the same umbrella fund.

(2) The general partner of an umbrella fund to which this Schedule applies shall—

(*a*) ensure that the words "An umbrella fund with segregated liability between sub-funds" are included in all its letterheads and in any agreement entered into on its behalf in writing with a third party, and

(*b*) disclose to a third party that it is a segregated liability umbrella fund before the general partner enters into an oral contract with the third party.

(3) If the general partner of an umbrella fund fails to comply with *subparagraph (2)(a)* or *(b)*, the general partner and any officer of it who is in default shall be guilty of an offence.

(4) There shall be implied in every contract, agreement, arrangement or transaction entered into on behalf of an umbrella fund to which this Schedule applies the following terms, that:

(*a*) the party or parties contracting with respect to the umbrella fund shall not seek, whether in any proceedings or by any other means whatsoever or wheresoever, to have recourse to any assets of any sub-fund of the

umbrella fund in the discharge of all or any part of a liability which was not incurred on behalf of that sub-fund;

(*b*) if any party contracting with respect to the umbrella fund shall succeed by any means whatsoever or wheresoever in having recourse to any assets of any sub-fund of the umbrella fund in the discharge of all or any part of a liability which was not incurred on behalf of that sub-fund, that party shall be liable to the umbrella fund to pay a sum equal to the value of the benefit thereby obtained by it; and

(*c*) if any party contracting with respect to the umbrella fund shall succeed in seizing or attaching by any means, or otherwise levying execution against, any assets of a sub-fund of an umbrella fund in respect of a liability which was not incurred on behalf of that sub-fund, that party shall hold those assets or the direct or indirect proceeds of the sale of such assets on trust for the umbrella fund and shall keep those assets or proceeds separate and identifiable as such trust property.

(5) All sums recovered by an umbrella fund as a result of any such trust as is described in *subparagraph (4)(c)* shall be credited against any concurrent liability pursuant to the implied term set out in *subparagraph (4)(b)*.

(6) Any asset or sum recovered by an umbrella fund pursuant to the implied term set out in *clause (b)* or *(c)* of *subparagraph (4)* or by any other means whatsoever or wheresoever in the events referred to in those clauses shall, after the deduction or payment of any costs of recovery, be applied so as to compensate the sub-fund affected.

(7) In the event that assets attributable to a sub-fund to which this Schedule applies are taken in execution of a liability not attributable to that sub-fund, and in so far as such assets or compensation in respect thereof cannot otherwise be restored to that sub-fund affected, the general partner of the umbrella fund, with the consent of the depositary, shall certify or cause to be certified, the value of the assets lost to the sub-fund affected and transfer or pay from the assets of the sub-fund or sub-funds to which the liability was attributable, in priority to all other claims against such sub-fund or sub-funds, assets or sums sufficient to restore to the sub-fund affected, the value of the assets or sums lost to it.

Further matters respecting an umbrella fund

4. (1) Without prejudice to the other provisions of this Schedule, a sub-fund of an umbrella fund is not a legal person separate from that umbrella fund, but the general partner of an umbrella fund may sue and be sued in respect of a particular sub-fund and may exercise the same rights of set-off, if any, as between its sub-funds as apply at law in respect of companies and the property of a sub-fund is subject to orders of the court as it would have been if the sub-fund were a separate legal person.

(2) Nothing in this paragraph or any other provision of this Schedule shall prevent the application of any enactment or rule of law which would require the application of the assets of any sub-fund in discharge of some or all of the liabilities of any other sub-fund on the grounds of fraud or misrepresentation.**]**

Number 24 *of* 1994

INVESTMENT LIMITED PARTNERSHIPS ACT 1994

REVISED

Updated to 7 December 2022

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Investment Limited Partnerships Acts 1994 and 2020: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Investment Limited Partnerships (Amendment) Act 2020* (31/2020), s. 2(1)). The Acts in this group are:

- *Investment Limited Partnerships Act 1994* (24/1994)
- *Investment Limited Partnerships (Amendment) Act 2020* (31/2020), Part 2

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.