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Introduction to Hong Kong Limited Partnership Fund

1. Background

On 31 August 2020, the Limited Partnership Fund Ordinance (Cap. 637) (“**the Ordinance**”) came into effect in Hong Kong, establishing a limited partnership fund regime to allow private funds to be registered in Hong Kong in the form of limited partnerships.

A limited partnership fund (“**LPF**”) is structured as a limited liability partnership fund, which brings benefits to investors through investment management. The introduction of the LPF regime in Hong Kong aims to attract private investment funds (including private equity funds and venture capital funds) to bring capital into companies and investments in various sectors, including start-ups in the innovation and technology sector in the Guangdong–Hong Kong–Macao Greater Bay Area.

For instance, compared to the existing exempted limited partnerships in the Cayman Islands, the newly introduced LPFs in Hong Kong can be more simplified in terms of establishment and operation requirements, saving set-up and operating costs:

- (1) The registration method is simple, which only need to submit the application form to the Companies Registry in Hong Kong through the law firm;
- (2) The registration fee is only about HK\$3,000, and the registration application is usually completed within weeks.
- (3) The annual return delivery fee is only HK\$105;
- (4) Unless it is open to retail investors, SFC approval is basically unnecessary;
- (5) Only one responsible person is required to be appointed to implement Anti-Money Laundering / Countering the Financing of Terrorism (“**AML/CFT**”) measures;

- (6) There is no need to appoint a custodian and the only requirement is the proper custody of the assets;
- (7) There is no specific requirement for appointing a valuer and what accounting standards to be adopted;
- (8) If relevant requirements are met, they can apply for profits tax exemption and no stamp duty is payable on the capital contribution, transfer or withdrawal of the interest in the LPF;
- (9) After the re-domiciliation of a LPF established overseas to Hong Kong, the re-domiciliation procedures are now relatively simple, and the re-domiciliation will enjoy the same rights as a LPF established in Hong Kong.
- (10) The overall legal fees required are relatively not high, unless the circumstances are more complex and depend also on the number of participants.

In addition, compared to the exempted limited partnership in the Cayman Islands, the overall structure and team composition of the fund is more streamlined (e.g. there is no need to employ overseas Cayman Islands lawyers and accountants to handle fund matters), and the Mainland and overseas investors are usually more familiar with Hong Kong's regulatory regime, legal system and tax system, and Hong Kong is closer to the Mainland market.

2. Persons Involved in the Creation of the Fund

- (1) General Partner: may be one of the following—
 - (a) A natural person who has reached the age of 18 (Note: usually a natural person, and it will bear unlimited joint and several liability)
 - (b) Hong Kong private company limited by shares
 - (c) Registered non-Hong Kong company
 - (d) Hong Kong Limited Liability Partnership
 - (e) Limited Partnership Fund
 - (f) Non-Hong Kong Limited Liability Partnership
- (2) Limited Partner
 - (a) natural person
 - (b) a corporation, partnership of any kind, a body not incorporated or any other entity
 - (c) In addition to capital contribution, funds can be injected in the form of property, services or other forms, and the only liability is the fund's debts and obligations within the scope of the capital injection.
- (3) Investment Manager
 - (a) Can be appointed by a general partner: a Hong Kong resident aged 18 or above, a company, a registered non-Hong Kong company or a general partner
 - (b) Perform the day-to-day investment management functions of the LPF
 - (c) It can also be concurrently held by the general partner (unless the position involves the need to hold a specific work license)

- (4) Auditors
 - (a) A practice unit as defined in the Professional Accountants Ordinance
 - (b) Separate from the LPF's general partner and investment manager
 - (c) The financial statements of the LPF shall be audited annually

- (5) Head of Anti-Money Laundering
 - (a) Appointment By General Partner: Accountant or Legal Professional, the Institutions, or Corporation as authorized by the Banking Ordinance
 - (b) Responsible for AML/CFT work

- (6) Authorized Representatives: Only applicable to another Hong Kong limited partnership fund being the general partner or a non-Hong Kong limited partnership being such general partner

3. Main Documents

- (1) Limited Partnership Agreements: Generally common terms such as –
 - (a) The purpose of the LPF
 - (b) Rights and obligations of general partners and limited partners
 - (c) The underlying terms of the capital commitment of the limited partner
 - (d) Investment Category
 - (e) The maximum amount in a portfolio company or investment
 - (f) Custody of the fund's books and records
 - (g) The power to change the general partner
 - (h) The role of the Investment Advisory Committee
 - (i) Key Person Clause: When a core member of the designated fund management team dies or leaves the fund, the fund will be suspended or dissolved and liquidated
 - (j) Liability for breach of contract, etc

- (2) Other common documents:
 - (a) Private Placement Memorandum: Marketing materials on the fund's background, key terms, risk factors, etc
 - (b) Subscription Agreement (if required): Fund subscription, which is signed by the general partner, limited partner and/or investment manager, etc
 - (c) Investment Management Agreement (if required): signed by the LPF, the general partner and the investment manager, etc., setting out the terms of appointment, the powers of the investment manager and the management fee, etc

4. Application and Registration Procedures

- (1) Step 1: Submit the application to the Companies Registry
 - (a) The application is made by a Hong Kong law firm or a solicitor representing the general partner
 - (b) The registration fee is about HK\$3,000

- (c) The main items to be completed in the registration application form include:
 - (i) The name of the fund in both English and Chinese
 - (ii) Office address
 - (iii) Investment Scope
 - (iv) Principal place of business
 - (v) Information on the general partner, authorized representatives, investment manager, Anti-Money Laundering officer, Applicant's particulars and declaration
 - (vi) Note: There is no need to disclose the name and investment amount of the limited partner in order to fully protect the privacy of investors
- (2) Step 2: The Companies Registry will normally issue a Certificate of Registration within about one week or so upon receipt of the application if registration is accepted and the Registrar issues a certificate of registration to the LPF with notification to Applicant to collect the certificate
- (3) Step 3: The general manager submits the application for business registration to the Business Registration Office of Inland Revenue Department within one month after the date of registration

5. Licence Application

An LPF is required to apply for a licence from the Securities and Futures Commission of Hong Kong (the "SFC") if:

- (1) LPF, General Partner and/or Investment Manager:
 - (a) Carrying on a fund management business in Hong Kong that constitutes "asset management" (i.e., the management of real estate investment schemes or involving the management of listed securities or futures contracts) (Type 9 licence (asset management)).
 - (b) Discretion in fund investment (Type 9 licence)
 - (c) For the promotion or distribution of the Fund or for any other securities dealing activities (e.g., negotiation and execution of transactions) in relation to the fund (Type 1 licence, "dealing in securities") (generally no licence is required for investments in private companies, depending on the mode of operation)
 - (d) Advising on investments or investments to be made by the Fund (Type 4 Licence (Advising on Securities))
- (2) Members of the Investment Committee (if any)
 - (a) If the Investment Committee member has a leading role in making investment decisions for the Fund (whether individually or jointly)
 - (b) Must be a licensed representative and, where appropriate, be approved as a licensed responsible officer
- (3) Distributor, Placement Agent (Type 1 License (Dealing in Securities))

6. Our Legal Services

We may basically provide the following services for the registration scheme of the LPF in Hong Kong:

- (1) Drafting legal documents such as limited partnership agreements, Private Placement Memorandum, subscription agreements, etc. (if necessary) and providing legal advice on the issues involved
- (2) Assisting in the selection of accounting firms to provide professional accounting and auditing services, secretarial services (including the provision of ready-made registered companies, if necessary), registered address, etc
- (3) Acting for the general partner in LPF registration matters, preparing and submitting applications to the Companies Registry
- (4) Arranging for an accountant to act as the responsible person of the Fund (if necessary) to implement AML/CFT measures
- (5) Acting for the Fund in the SFC's application for relevant licences or introducing relevant licensed persons (if necessary)