

CAYMAN ISLANDS

CAYMAN ISLANDS  
LAW SCHOOL



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THE MUTUAL FUNDS LAW  
(2003 REVISION)

THE RETAIL MUTUAL FUNDS (JAPAN) REGULATIONS, 2003

(Price \$4.80 Cents)

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**PERFORMANCE OR CREDITWORTHINESS OF THE  
RETAIL MUTUAL FUND.**

FURTHERMORE, IN ISSUING SUCH A LICENCE THE  
AUTHORITY SHALL NOT BE LIABLE FOR ANY  
LOSSES OR DEFAULT OF THE RETAIL MUTUAL  
FUND OR FOR THE CORRECTNESS OF ANY  
OPINIONS OR STATEMENTS EXPRESSED IN ANY  
PROSPECTUS.";

- (b) the administrator, including the name of the administrator  
and the address of its registered or principal business office  
or both;
- (c) the custodian and any sub-custodian, including-
  - (i) the name of the custodian and sub-custodian (if any)  
and the address of their registered or principal  
business office or both; and
  - (ii) the main business activity of the custodian and any  
sub-custodian; and
- (d) the investment adviser including-
  - (i) the names of the directors of the investment adviser,  
details of their experience and the addresses of the  
investment adviser's registered or principal business  
office or both;
  - (ii) the material provisions of any contract engaging the  
services of investment advisers; and
  - (iii) the material provisions of any law and regulations in  
the Islands governing the investors' interest in the  
fund.

Made in Cabinet the 4<sup>th</sup> day of November, 2003

Carmena Watler

Clerk of Cabinet

- (ix) where applicable, an indication of stock exchanges or markets where the securities are, or are to be, listed or dealt in;
- (x) the procedures and conditions for the issue and sale of securities;
- (xi) the procedures and conditions for the redemption or repurchase of securities and the circumstances in which such redemption or repurchase may be suspended;
- (xii) a description of the intentions with respect to the declaration of dividends or distributions on the securities of the retail mutual fund;
- (xiii) a description of the retail mutual fund's investment objectives, investment policy and any limitations on that investment policy, a description of the retail mutual fund's material risks and an indication of any techniques and instruments or borrowing powers which may be used;
- (xiv) a description of the rules applicable to valuation of the retail mutual fund's assets;
- (xv) a description of the rules applicable to the determination of issue and redemption or repurchase prices (including the frequency of dealings) and the places where information as to the prices may be obtained;
- (xvi) information concerning the manner, amount and calculation of remuneration to be paid to the operator, the administrator, investment adviser, custodian and any other service providers receiving or likely to receive fees from the retail mutual fund;
- (xvii) a description of the potential conflicts of interest between the retail mutual fund, its operator and its service providers;
- (xviii) a statement if the retail mutual fund is registered or licensed, as the case may require, (or intends to be registered or licensed) in any jurisdiction or with any supervisory or regulatory authority outside the Islands;
- (xix) details of the nature and frequency of financial reports to be distributed to investors;
- (xx) the generally accepted accounting principles to be adopted in preparing the retail mutual fund's financial statements;
- (xxi) the following statement-

"A MUTUAL FUND LICENCE ISSUED BY THE CAYMAN ISLANDS MONETARY AUTHORITY DOES NOT CONSTITUTE AN OBLIGATION OF THE AUTHORITY TO ANY INVESTOR AS TO THE

CAYMAN ISLANDS

**THE MUTUAL FUNDS LAW  
(2003 Revision)**

**THE RETAIL MUTUAL FUNDS (JAPAN) REGULATIONS, 2003**

The Governor in Cabinet, in exercise of the powers conferred by section 37(1) of the Mutual Funds Law (2003 Revision), makes the following regulations-

**PART I- Introductory**

1 These regulations may be cited as the Retail Mutual Funds (Japan) Regulations, 2003 and shall apply to a retail mutual fund as defined in regulation 2. Citation and application

2 In these regulations, unless the context otherwise requires- Definitions

"administrator" means the person appointed to act as the administrator of a retail mutual fund pursuant to regulation 11;

"auditor" means the person appointed as auditor to a retail mutual fund pursuant to section 8(1) of the Law;

"Authority" means the Cayman Islands Monetary Authority established under section 5(1) of the Monetary Authority Law (2003 Revision) and includes any employee of the Authority acting under the Authority's authorisation;

"constitution" means-

- (a) in the case of a mutual fund company, its memorandum of association and articles of association;
- (b) in the case of a partnership, the partnership agreement; and
- (c) in the case of a unit trust, its trust deed;

"custodian" means the person appointed to act as custodian pursuant to regulation 15, and includes a prime broker;

"director" includes an alternate director;

"fit and proper" has the meaning assigned by section 3 of the Law;

"investment adviser" means the person appointed by or on behalf of a retail mutual fund pursuant to regulation 19 to render investment advice or investment management services or both, in connection with the investment activities of a retail mutual fund;

"investments" means property of any description which is or may be acquired by a retail mutual fund for investment purposes and includes shares, stocks, bonds, debt instruments, warrants, options, futures, commodities and land, any derivatives in relation thereto and also includes short positions in any investments;

"investor" means a person who holds securities in a retail mutual fund;

"Law" means the Mutual Funds Law (2003 Revision);

"operator", in respect of a mutual fund, means-

- (a) where the mutual fund is a unit trust, a trustee of that trust;
- (b) where the mutual fund is a partnership, a general partner in that partnership; or
- (c) where the mutual fund is a company, a director of that company;

"person" means a natural person or a company or association or body of persons, whether incorporated or not;

"promoter", in respect of a mutual fund or proposed mutual fund, means any person whether within or without the Islands who causes the preparation or distribution of an offering document in respect of the mutual fund or proposed mutual fund but does not include a professional adviser acting for or on behalf of such a person;

"prospectus" means the prospectus, offering document, explanatory memorandum or other document or combination thereof issued by a retail mutual fund for the purposes of offering its securities and "relevant prospectus" means the most recently published prospectus; and for the purposes of the Law and these regulations, references to "offering document" in sections 4 and 5 of the Law are to be read as references to "prospectus";

"retail mutual fund" means a mutual fund licensed under section 4(1)(a) of the Law and the securities of which have been or are intended to be offered to the public in Japan, except that-

- (a) the following mutual funds shall not be regarded as retail mutual funds for the purposes of these regulations-
  - (i) a mutual fund the securities of which have been or are intended to be offered exclusively to Japanese qualified institutional investors as defined in Article 2, Paragraph 3,

PART VIII- The prospectus

35. (1) The prospectus filed by a retail mutual fund in accordance with sections 4(1) and 4(6) of the Law shall contain the matters specified in regulation 37. Prospectus

(2) The retail mutual fund shall file with the Authority an updated prospectus or an amendment thereto describing any material change to the matters set out in the prospectus.

36. A prospectus shall be available without charge at the registered office of the retail mutual fund in the Islands or at the office in the Islands of at least one of the service providers. Availability of prospectus

37. A prospectus, in addition to any requirements of law as provided in section 4(7) of the Law, shall include information relating to- Content of prospectus

- (a) the retail mutual fund, including-
  - (i) the name of the retail mutual fund, and in the case of a company or partnership, the address of its registered office in the Islands;
  - (ii) the date of incorporation or establishment of the retail mutual fund (indicating whether or not the duration is limited);
  - (iii) a statement of the place where copies of the constitution and any annual or periodic reports may be inspected and obtained;
  - (iv) the date of the financial year end of the retail mutual fund;
  - (v) the name and address of the auditor;
  - (vi) the names and business addresses of directors and officers, registrar, legal adviser, and other persons, if any, apart from those in sub-paragraphs (b), (c) and (d) below having significant involvement in the affairs of the retail mutual fund;
  - (vii) details of the authorised and issued capital of the retail mutual fund which is a mutual fund company including, where applicable, any existing initial, founder or management shares;
  - (viii) details of the principal rights and restrictions attaching to the securities, including with respect to currency, voting rights, circumstances of winding up or dissolution, certificates, entry in registers and other similar details;

Changes in auditor	<p>28. (1) A retail mutual fund shall give at least one months' prior notice in writing of any proposed change in the auditor to the Authority, the investors and other service providers.</p> <p>(2) A retail mutual fund not change an auditor without the prior approval of the Authority.</p>
Auditor's consent	<p>29. A retail mutual fund shall not publish or distribute any report of the auditor in respect of a retail mutual fund without first receiving the written consent of the auditor.</p>
Auditor's responsibility	<p>30. An auditor shall audit the financial statements to be included in an annual report to the investors in the retail mutual fund and such audit shall be conducted in accordance with the applicable generally accepted accounting principles, and the auditor shall make a report to the investors in accordance with those standards.</p>
Generally accepted accounting principles	<p>31. (1) An auditor may use the generally accepted auditing standards of a jurisdiction other than the Islands and, in such a case, the report of the auditor shall disclose this fact and name the jurisdiction.</p> <p>(2) An auditor shall be responsible for making the determination as to which auditing standards shall be applied in his audit and, in making his selection, the auditor shall consider the generally accepted accounting principles approved by the retail mutual fund for the preparation of the financial statements to be audited.</p>
Auditor's concurrence with selection of generally accepted accounting principles	<p>32. An auditor shall consider, in determining whether or not to accept the appointment as auditor, whether or not he concurs with the choice of generally accepted accounting principles to be applied in preparing the financial statements.</p>
Auditor's independence	<p>33. (1) An auditor shall be independent of the operator of the retail mutual fund and the other service providers to the retail mutual fund.</p> <p>(2) The minimum standards of independence required for the purposes of this regulation shall be those required by the Cayman Islands Society of Professional Accountants.</p>
Additional audit adherence	<p>34. An auditor shall, in addition to the specific requirements of these Regulations, adhere to the auditing requirements of any securities exchange or other supervisory or regulatory bodies to which the retail mutual fund is subject.</p>

<p>Item 2 of the Securities and Exchange Law of Japan and Article 4, Paragraph 1 of the Ordinance of Cabinet Office concerning definitions stipulated in Article 2 of the Securities and Exchange Law of Japan; or</p> <p>(ii) a mutual fund which has offered securities to the public in Japan and-</p> <p>(A) is in existence at the date these regulations come into force; or</p> <p>(B) is in existence at the date these regulations come into force and established any sub-trust thereof after these regulations came into force;</p> <p>(b) notwithstanding sub-paragraph (a), a mutual fund falling under sub-paragraph(a) (ii) shall be regarded as a retail mutual fund for the purposes of these regulations where it has made an irrevocable election in writing to the Authority specifying that these regulations shall apply to it;</p>	<p>"Schedule 3 territory" means a jurisdiction included within the list contained in Schedule 3 to the Money Laundering Regulations (2003 Revision);</p> <p>"securities" means shares or interests of a company, units of a unit trust or partnership interests of a partnership or each class or series thereof;</p> <p>"service provider" means an administrator, auditor, custodian, sub-custodian or registrar to a retail mutual fund;</p> <p>"sub-custodian" means any person to which a custodian delegates or appoints to perform the whole or part of its functions; and</p> <p>"subscription agreement" means the document approved by or on behalf of a retail mutual fund pursuant to which an investor acquires securities in that retail mutual fund.</p>
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Part II- The Retail Mutual Fund

<p>3. The constitution of a retail mutual fund-</p> <p>(a) shall be made available for inspection without charge at the request of any investor or prospective investor at the registered office of a retail mutual fund in the Islands or at the office of the administrator; and</p> <p>(b) copies of the constitution shall be made available to investors or prospective investors on payment (if any) of any reasonable costs associated with the making and forwarding of such copies.</p>	<p>Availability of constitution of a retail mutual fund</p>
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Content of constitution	<p>4. The constitution of a retail mutual fund shall include provisions for the following matters relating to such retail mutual fund-</p> <ul style="list-style-type: none"><li>(a) the rights and restrictions attaching to the securities;</li><li>(b) the terms for valuation of assets and liabilities;</li><li>(c) the manner of calculation of the net asset value of each security and the issue price and redemption or repurchase price of the securities;</li><li>(d) the terms upon which securities are issued, including the terms and circumstances, if any, upon which the rights and restrictions attaching to the securities may be changed;</li><li>(e) the terms upon which securities may be transferred or converted, if applicable;</li><li>(f) the terms upon which securities may be redeemed or repurchased and the circumstances in which redemptions or repurchases may be suspended; and</li><li>(g) the appointment of an auditor.</li></ul>
Publication of prices	<p>5. The issue and redemption or repurchase prices for securities of a retail mutual fund at the most recent issue and redemption or repurchase date shall be made available on request without charge at the office of the administrator.</p>
Reports to investors	<p>6. (1) A retail mutual fund shall, within six months of the end of its financial year or on such earlier date as may be specified in the relevant prospectus, prepare and distribute or cause to be prepared and distributed an annual report to investors which shall include copies of the audited financial statements of the retail mutual fund prepared in accordance with Part VI.</p> <p>(2) At the discretion of the operator of the retail mutual fund, interim or periodic reports may also be prepared and distributed by the retail mutual fund in accordance with provisions relating to such reports contained in the relevant prospectus.</p>
Exception reports by the administrator	<p>7. (1) Where an administrator becomes aware that-</p> <ul style="list-style-type: none"><li>(a) some or all of the assets of a retail mutual fund have not been invested in accordance with the investment objectives and restrictions contained in the relevant prospectus; or</li><li>(b) that the operator of the retail mutual fund or its investment adviser is not conducting the business affairs or investment activities of the retail mutual fund materially in accordance with the provisions of its constitution or the relevant prospectus,</li></ul> <p>the administrator shall as soon as possible after such information has come to his knowledge-</p>

- (iii) such other expenses as are material, including amortisation of organisation costs, auditors' fees, legal fees, and other professional fees;
  - (iv) taxes;
  - (v) net income;
  - (vi) realised gains or losses on investments and foreign currencies unless separately disclosed in the statement of changes in net assets or in the financial position; and
  - (vii) unrealised gains or losses on investments and foreign currencies unless separately disclosed in the statement of changes in net assets or in the financial position;
- (c) a statement of material changes in net assets or in financial position of the retail mutual fund; and
  - (d) in relation to the notes to financial statements-
    - (i) the jurisdiction whose generally accepted accounting principles have been followed in the preparation of the financial statements;
    - (ii) significant accounting policies, including-
      - (A) the basis of valuation of investments including the basis of valuation of unquoted and unlisted investments;
      - (B) the basis of recognition of investment income;
      - (C) foreign currency translation policies and disposition of gains or losses;
      - (D) the basis of amortisation of organisation costs, if material; and
      - (E) any other accounting policy adopted to deal with items which are judged material;
    - (iii) any changes to accounting policies made during the period; and
    - (iv) an analysis of the material contingent liabilities not provided for in the financial statements.

PART VII- Audit

27. (1) A retail mutual fund shall appoint and maintain an auditor in accordance with section 8(1) of the Law. Appointment of auditor
- (2) In approving the appointment of auditor under sub-regulation (1) or regulation 28(2), the Authority shall be satisfied that such auditor is a fit and proper person to audit a retail mutual fund.



Audited financial statements

25. Subject to the requirements of the relevant generally accepted accounting principles and those of any relevant securities exchanges or other supervisory or regulatory bodies, audited financial statements of a retail mutual fund shall include-

- (a) a statement of net assets, a balance sheet, or a statement of assets and liabilities;
- (b) a statement of operations or a statement of income and expenses;
- (c) a statement of changes in net assets or in the financial position;
- (d) a statement of retained earnings or deficit, if appropriate; and
- (e) notes to the financial statements containing disclosure as required by-
  - (i) the relevant generally accepted accounting principles;
  - (ii) any securities exchanges or other supervisory or regulatory bodies to which the retail mutual fund is subject; and
  - (iii) such further information as is required by the Law, these regulations, the Companies Law (2003 Revision) and any relevant provisions of the retail mutual fund's constitution and relevant prospectus.

Minimum requirements for inclusion in financial statements

26. The financial statements of a retail mutual fund shall disclose the following minimum information-

- (a) in relation to the statement of net assets, balance sheet or statement of assets and liabilities-
  - (i) cash and bank balances;
  - (ii) accrued investment income receivable;
  - (iii) amounts receivable on subscriptions for the retail mutual fund's securities;
  - (iv) receivables in respect of sales of investments;
  - (v) unamortised organisation costs;
  - (vi) loans and other forms of borrowing;
  - (vii) the amounts payable on redemption or repurchase of the retail mutual fund's securities;
  - (viii) amounts payable on distribution; and
  - (ix) net asset value of each security;
- (b) in relation to the statement of operations or statement of income and expenses-
  - (i) investment income by category;
  - (ii) other income;

- (i) make a report in writing of such matters to the operator of the retail mutual fund; and
- (ii) submit to the Authority a copy of such report and the circumstances applicable to the report,

and that report or an adequate summary thereof shall be included in the retail mutual fund's next annual report and next interim or periodic report if such next interim or periodic report is required to be distributed before the next annual report.

(2) An administrator shall not be in breach of any statutory or contractual duty to which it is subject as administrator of a retail mutual fund solely by reason of its communicating to the Authority, in good faith, in accordance with paragraph (1), any event or any other information on any other matter of which it becomes aware in its capacity as administrator and which relates to the business affairs or investment activities of that retail mutual fund.

8. An administrator shall notify the Authority as soon as practicable in writing of-

Notification of fund suspension or liquidation

- (a) any suspension of subscriptions or redemptions or repurchases in respect of the retail mutual fund, and the reasons for such suspension; and
- (b) any intention to liquidate the retail mutual fund and the reasons for such liquidation.

9. An operator of a retail mutual fund shall submit or cause to be submitted to the Authority within 20 days after the end of the six month period following the end of each financial year, a written report on the activities of the retail mutual fund and such report shall contain in relation to such mutual fund-

Activity reports

- (a) the name of the retail mutual fund together with all previous names;
- (b) the net asset value of each security held by investors;
- (c) the percentage change in the net asset value and each security from the previous reporting period;
- (d) the value of the net assets;
- (e) the number and value of new subscriptions in the relevant reporting period;
- (f) the number and value of redemptions or repurchases in the relevant reporting period; and
- (g) the total number of securities in issue at the end of the reporting period.

10. An operator of a retail mutual fund shall submit or cause to be submitted to the Authority annually a declaration signed by such operator confirming -

Compliance statements and declarations

- (a) that to the best of the knowledge and belief of the operator the retail mutual fund's investment guidelines, restrictions and constitution have been complied with; and
- (b) that the retail mutual fund has not operated in a manner prejudicial to investors or creditors.

**Part III- The Administrator**

Appointment of administrator

11. A retail mutual fund shall appoint and maintain an administrator approved by the Authority pursuant to section 5(2) (b) of the Law.

Changes in administrator

12. (1) A retail mutual fund shall give written notice of any proposed change in the appointment of an administrator to the Authority, the investors and the service providers (other than the administrator) not less than one month before such change.

(2) A retail mutual fund shall not make a change in the appointment of an administrator without obtaining the prior approval of the Authority.

Functions of the administrator

13. (1) An administrator, where relevant, shall ensure-
- (a) that the issue, transfer, conversion and redemption or repurchase of securities of the retail mutual fund are carried out in accordance with the constitution of the retail mutual fund, relevant prospectus and subscription agreement and all applicable laws;
  - (b) that the net asset value of the securities, and their issue, conversion and redemption or repurchase prices, are calculated in accordance with the constitution of the retail mutual fund, the relevant prospectus and subscription agreement and made available to investors or potential investors;
  - (c) that –
    - (i) all necessary office facilities, equipment and personnel required to enable the administrator to carry out its functions; and
    - (ii) all general administrative services required by the retail mutual fund to carry out its business affairs and to ensure compliance with all applicable laws and regulations, are available;
  - (d) that periodic reports are prepared for investors in such form, subject to these regulations, the Companies Law (2003 Revision) and the Law, as the operator of a retail mutual fund may agree;
  - (e) that the accounts of the retail mutual fund and such financial books and records required-
    - (i) by the Law;

immediately following such acquisition exceed 15 per cent of the value of its net assets.

(5) It shall be a condition of the licence of a retail mutual fund that the contract of engagement of the investment adviser shall include the obligations contained in paragraph (1) (a) to (e).

22. (1) An investment adviser may appoint any person ("a sub-adviser") as it thinks fit to carry out on its behalf any and all of the obligations of the investment adviser but the investment adviser shall remain responsible to the retail mutual fund for the performance by such persons of any function so delegated.

Delegation by investment adviser

(2) An investment adviser shall give prior notice in writing of any proposed appointment under paragraph (1) to the Authority, the operator and the other service providers.

**Part VI- Financial Reports**

23. (1) A retail mutual fund, within six months of the end of each financial year, shall prepare a financial report containing audited financial statements and distribute such financial statements to investors and to the Authority in accordance with sections 8(1) and (2) of the Law.

Financial reports

(2) A retail mutual fund shall prepare and distribute interim financial statements and reports in accordance with the relevant prospectus.

24. (1) Financial statements and other financial information distributed by or on behalf of the retail mutual fund and financial information used in the determination of net asset value shall be prepared in accordance with the generally accepted accounting principles specified in the relevant prospectus.

Basis of preparation of financial reports

(2) A retail mutual fund shall adopt appropriate generally accepted accounting principles in preparing its financial statements and in making such a determination, the operator of the retail mutual fund shall consider-

- (a) the requirements of any securities authorities or agencies, or supervisory or regulatory bodies to which the retail mutual fund is subject;
- (b) the jurisdiction in which the majority of investors, or potential investors, in the retail mutual fund reside;
- (c) the jurisdictions in which the sponsor, promoter and investment adviser are located; and
- (d) the proposed business of the retail mutual fund and the nature of its proposed investments.

- (a) ensure that the subscription monies received by the retail mutual fund are applied in accordance with its constitution, relevant prospectus and subscription agreement;
- (b) ensure that on the sale of any assets of the retail mutual fund the net proceeds of such sale are remitted to the custodian within reasonable time limits;
- (c) ensure that the income of the retail mutual fund is applied in accordance with its constitution, relevant prospectus and subscription agreement;
- (d) ensure that the investment of the assets of the retail mutual fund is in accordance with its investment objectives and within any investment restrictions as stated in its constitution, relevant prospectus and subscription agreement; and
- (e) provide in reasonable time such information and instructions as may be required to enable the custodian or any sub-custodian to perform its contractual obligations in respect of the retail mutual fund.

(2) An investment adviser shall deposit with or to the order of the custodian or any sub-custodian all certificates or documents of title to the investments of the retail mutual fund.

(3) An investment adviser shall establish or monitor procedures for the holding of investments of the retail mutual fund by the custodian or any sub-custodian.

(4) An investment adviser shall not on behalf of a retail mutual fund-

- (a) enter into any transactions with itself or any of its directors as principal;
- (b) enter into any transactions which are intended to benefit the investment adviser or any party other than the retail mutual fund;
- (c) acquire the shares of any one company if as a result of such acquisition the total number of shares of such company held by all mutual funds managed by the investment adviser would exceed 50 per cent of the total number of all issued and outstanding shares of such company;
- (d) acquire the shares of any one company if as a result of such acquisition, the total number of shares of such company held by the retail mutual fund would exceed 10 per cent of the total number of issued and outstanding shares of such company; or
- (e) acquire any investment which is not listed on an exchange or which is not readily realisable if as a result thereof the total value of all such investments held by the retail mutual fund would

- (ii) by these regulations;
  - (ii) by the Companies Law (2003 Revision);
  - (iii) by any other law;
  - (v) by the retail mutual fund's constitution, relevant prospectus and subscription agreement;
  - (vi) or otherwise,
- are maintained in good order;
- (f) except where a separate registrar is appointed, that the register of investors required by the constitution of the retail mutual fund is maintained;
  - (g) except where the administrator is maintaining the register of investors, that the procedures of the registrar and the instructions given to the registrar relating to the maintenance of the register are effectively monitored; and
  - (h) that the distribution to the investors of all dividends or other distributions which may from time to time be declared and paid by the retail mutual fund on its securities.

(2) An administrator shall administer the retail mutual fund in accordance with-

- (a) the constitution;
- (b) the Law and these regulations;
- (c) the relevant prospectus;
- (d) the specific contractual arrangements; and
- (e) any proper directions given from time to time by the operator-
  - (i) pursuant to a power conferred on the operator by the constitution; and
  - (ii) consistent with the provisions of the documents referred to in sub-paragraphs (a), (b), (c) and (d).

(3) An administrator shall-

- (a) at its offices, keep a copy of the register of investors available for inspection by investors during normal office hours;
- (b) prepare or, where a separate registrar is appointed, ensure that the registrar prepares and, if required, seal on behalf of the retail mutual fund new certificates and balance certificates;
- (c) ensure that certificates for securities in the retail mutual fund are issued or cancelled in accordance with the provisions (if any) of its constitution; and
- (d) provide, or where a separate registrar is appointed, ensure that the registrar provides, such facilities as may from time to time be necessary with respect to the replacement of certificates or transfer of securities of the retail mutual fund.

Delegation by administrator

14. (1) Subject to any provisions of the constitution, the relevant prospectus and subscription agreement to the contrary, an administrator may, at its discretion, delegate any or all of its functions or duties, including its functions or duties under these regulations, to any person incorporated or otherwise lawfully carrying on business in the Islands or in a Schedule 3 territory, but the administrator shall remain responsible for the performance by such persons of any function or duty so delegated.

(2) An administrator shall give prior notification in writing of any delegation under paragraph (1) to the Authority, and immediate notice upon delegation to the operator, the other service providers and to the investors.

PART IV- The Custodian

Appointment of a custodian

15. A retail mutual fund shall appoint and maintain a custodian which is regulated in-

- (a) the Islands;
- (b) a Schedule 3 territory; or
- (c) any other jurisdiction approved by the Authority.

Changes in custodian

16. A retail mutual fund shall give notice in writing of any proposed change in the appointment of a custodian to the Authority, the investors and service providers (other than the custodian concerned) not less than one month prior to such change.

Functions of custodian

17. (1) A custodian, shall, where relevant-

- (a) provide for the safekeeping of the certificates and documents of title to investments of the retail mutual fund; and
- (b) carry out or cause to be carried out such instructions of the administrator, investment adviser and the operator in relation to any investments as may be provided by contract unless those instructions conflict with the retail mutual fund's constitution, the relevant prospectus, the subscription agreement or applicable laws and regulations.

(2) A custodian shall be entitled to request from the administrator or from the retail mutual fund copies of records and information relating to the following-

- (a) the receipt and application of subscription monies for securities of the retail mutual fund;
- (b) the issue, conversion and redemption or repurchase of securities of the retail mutual fund;

- (c) the transfer of the net proceeds received on the sale of investments of the retail mutual fund;
- (d) the application of all capital and income of the retail mutual fund; and
- (e) the calculation in accordance with the retail mutual fund's constitution, the relevant prospectus and subscription agreement of the net asset value of the securities thereof and their issue, conversion and redemption or repurchase prices,

and the administrator or the retail mutual fund shall provide such copies and such information.

18. (1) Subject to any provisions of the constitution, the relevant prospectus, or the subscription agreement to the contrary, the custodian-

Delegation by custodian

- (a) may appoint any person ("a sub-custodian") as it thinks fit to carry out on its behalf any and all of the obligations of the custodian;
- (b) shall exercise reasonable skill, care and diligence in the selection of a suitable sub-custodian under sub-paragraph (a);
- (c) shall be responsible for ensuring, on a continuing basis, the suitability of the sub-custodian to provide custodial services; and
- (d) shall give at least one months' prior notice of any delegation under this regulation to the other service providers.

(2) A custodian shall maintain an appropriate level of supervision over each sub-custodian and make necessary periodic enquiries to confirm that each sub-custodian continues to competently discharge its obligations.

PART V- The Investment Adviser

19. A retail mutual fund shall appoint and maintain an investment adviser which is incorporated in or otherwise lawfully carrying on business in-

Appointment of investment adviser

- (a) the Islands;
- (b) a Schedule 3 territory; or
- (c) any other jurisdiction approved by the Authority.

20. (1) A retail mutual fund shall give notice in writing of any proposed change in the investment adviser to the Authority, the investors and other service providers not less than one month prior to such change.

Changes in investment adviser

(2) An investment adviser shall not make any change to the membership of its board of directors or of a majority in value of the investors of each retail mutual fund it manages without the prior approval of the Authority.

21. (1) An investment adviser shall-

Functions of investment adviser