COLLAS CRILL

Limited Partnership Act, 2017: British Virgin Islands

SEPTEMBER 2018

While it has been possible to register a limited partnership in the BVI since 1996 pursuant to The Partnership Act (1996), its use was somewhat restricted due to a number of uncertainties in the statute brought about by vague and often unclear language. These uncertainties often forced parties to seek out other jurisdictions for their limited partnership structures. With the enactment of the Limited Partnership Act, 2017 (**LPA**) the stage is now set for the BVI Limited Partnership (**LP**) to enjoy the same commercial usage and success that the BVI business company has enjoyed.

In fact many of the features that have made the BVI business company attractive have been duplicated in the BVI LPA and it is expected that LPs established under the modernised and innovative LPA will prove a very desirable and attractive structure in the investment and private equity funds space.

Legal Personality

The LPA provides the option of registering a limited partnership with legal personality. If that option is chosen the new statute expressly provides that such a LP is not a body corporate but it does have legal personality with full capacity to carry on and undertake any business or activity, or do any act or enter into an transaction.

Liability of Limited Partners

As with most LPs, a BVI limited partner is not liable for the debts and liabilities of the a limited partner beyond the amount of the LPs contribution or unpaid commitment, unless they have taken part in the management of the LP. The LPA sets out an extensive list of activities that an LP can undertake without these items constituting "taking part in the management" of the LP.

General Partners

An LP is required to have a general partner (**GP**) however the GP does not need to be a BVI company, and where it is a foreign company that company is not required to be registered in the BVI. A GP may, but is not required by the LPA, to make contribution to the capital of the LP. Should an LP not have a GP, the limited partners have up to ninety (90) days to admit a new GP.

Registering Security

The LPA provides the ability for an LP:

1. to create by an instrument in writing a charge of the assets of the LP;
2. to register the security interest against a LP on the Register of Registered Charges; and
3. to establish the priority of the security interests created by the LP.

This note is a summary of the subject and is provided for information only. It does not purport to give specific legal advice, and before acting, further advice should always be sought. Whilst every care has been taken in producing this note neither the author nor Collas Crill shall be liable for any errors, misprint or misinterpretation of any of the matters set out in it. All copyright in this material belongs to Collas Crill.

Other Features:

Redomicilaition: The ability to redomicile a foreign limited partnership to the BVI or to redomicile a BVI LP to a foreign jurisdiction.

Merger and Consolidation: The ability to merge or consolidate two or more LPs.

Scheme of Arrangement: The ability to submit a scheme of arrangement for court approval.

Mandatory Redemptions: The ability to compulsorily redeem minority partnership interests.

Termination: Comprehensive provisions regulating the termination of an LP and both solvent and insolvent winding up.

Minority LP Rights: The LPA grants to LP the right to dissent on proposals to merge, consolidate and the mandatory redemption of minority interests. In such cases, the dissenting limited partners are entitled to payment of fair value for their interests and a mechanism is set out in the LPA to determine the fair value.

Existing BVI LPs

Transitional provisions whereby existing BVI LPs will continue to be governed by the Partnership Act (1996) but may elect to re-register under the new statute within a 10 year period and will be deemed to have re-registered at the end of that period.

Conclusion

The LPA brings to the BVI many of the modern features that investors have come to expect in limited partnership law. In addition, it has introduced a number of innovative features that will bring the BVI LP to the forefront. We expect that practitioners and users will gravitate to the BVI limited partnership for its commercial and user friendly approach to limited partnerships in the same way that the BVI business company has become so popular.

Should you have questions about the LPA or wish to re-register an existing LP by adopting an amended limited partnership agreement that complies the LPA please do not hesitate to contact us.

This note is a summary of the subject and is provided for information only. It does not purport to give specific legal advice, and before acting, further advice should always be sought. Whilst every care has been taken in producing this note neither the author nor Collas Crill shall be liable for any errors, misprint or misinterpretation of any of the matters set out in it. All copyright in this material belongs to Collas Crill.

COLLAS CRILL

For more information please contact:

Ellie Crespi

BVI Managing Partner | BVI

t: +1 284 852 6335 | **e:** ellie.crespi@collascrill.com

This note is a summary of the subject and is provided for information only. It does not purport to give specific legal advice, and before acting, further advice should always be sought. Whilst every care has been taken in producing this note neither the author nor Collas Crill shall be liable for any errors, misprint or misinterpretation of any of the matters set out in it. All copyright in this material belongs to Collas Crill.