

CAYMAN ISLANDS



**Mutual Funds Act
(2021 Revision)**

RETAIL MUTUAL FUNDS (JAPAN) REGULATIONS

(2023 Revision)

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Consolidated with the—

Retail Mutual Funds (Japan) (Amendment) Regulations, 2006 made the 18th July, 2006;

Retail Mutual Funds (Japan) (Amendment) Regulations, 2012 made the 21st August, 2012;

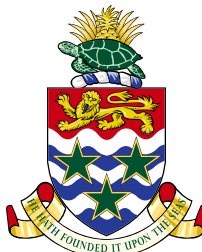
Retail Mutual Funds (Japan) (Amendment) Regulations, 2020 made the 9th June, 2020.

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Consolidated and revised this 31st day of December, 2022.

Note (not forming part of this Act): This revision replaces the 2018 Revision which should now be discarded.



CAYMAN ISLANDS
**Mutual Funds Act
(2021 Revision)**
**RETAIL MUTUAL FUNDS (JAPAN)
REGULATIONS
(2023 Revision)**
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CAYMAN ISLANDS

Mutual Funds Act
(2021 Revision)RETAIL MUTUAL FUNDS (JAPAN)
REGULATIONS
(2023 Revision)

PART I- INTRODUCTORY

Citation and application

1. These regulations may be cited as the *Retail Mutual Funds (Japan) Regulations (2023 Revision)*, and shall apply to a retail mutual fund as defined in regulation 2.

Definitions

2. In these regulations —

“**administrator**” means the person appointed to act as the administrator of a retail mutual fund under regulation 11;

“**auditor**” means the person appointed as auditor to a retail mutual fund under section 8(1);

“**Authority**” means the Cayman Islands Monetary Authority established under section 5(1) of the *Monetary Authority Act (2020 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 under regulation 15, and includes a prime broker;

“**director**” includes an alternate director;

“**Equivalent legislation jurisdiction**” means a jurisdiction designated, pursuant to section 5(2)(a) of the *Proceeds of Crime Act (2020 Revision)*, as having measures for combating money laundering and the financing of terrorism which are equivalent to that of the Islands;

“**fit and proper**” has the meaning assigned by section 3;

“**investment adviser**” means the person appointed by or on behalf of a retail mutual fund under regulation 19 to render investment management services, in connection with the investment activities of a retail mutual fund but does not include a sub-adviser appointed pursuant to regulation 22;

“**investment company**” means a company, the principal objective of which is to acquire, hold, manage and dispose of investments;

“**investment management services**” includes activities set out in paragraph 3 of the Schedule 2 of the *Securities Investment Business Act (2020 Revision)*;

“**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;

“**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 are to be read as references to “prospectus”;

“**retail mutual fund**” means a mutual fund licensed under section 4(1)(a) of the Law which has made or intends to make a public offering of its securities in Japan, except that —

- (a) a mutual fund which has made a public offering of its securities in Japan and —
 - (i) was in existence at 17th November, 2003; or
 - (ii) was in existence at 17th November, 2003 and established any sub-trust thereof after 17th November, 2003;

shall not be regarded as a retail mutual fund for the purposes of these Regulations;

- (b) notwithstanding sub-paragraph (a), a mutual fund falling under sub-paragraph (a) 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;

“**section**” means a section of the *Mutual Funds Act (2021 Revision)*, the principal Law;

“**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;

“**service provider**” means an administrator, auditor, custodian, sub-custodian or registrar to a retail mutual fund;

“**sub-custodian**” means any person to which a custodian delegates or appoints to perform the whole or part of its functions; and

“**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.

PART II - RETAIL MUTUAL FUND

Availability of constitution of a retail mutual fund

3. The constitution of a retail mutual fund —

- (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

- (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.

Content of constitution

- 4. The constitution of a retail mutual fund shall include provisions for the following matters relating to such retail mutual fund —
 - (a) the rights and restrictions attaching to the securities;
 - (b) the terms for valuation of assets and liabilities;
 - (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;
 - (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;
 - (e) the terms upon which securities may be transferred or converted, if applicable;
 - (f) the terms upon which securities may be redeemed or repurchased and the circumstances in which redemptions or repurchases may be suspended; and
 - (g) the appointment of an auditor.

Publication of prices

- 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.

Reports to investors

- 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.
- (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.

Exception reports by the administrator

- 7. (1) Where an administrator becomes aware that —



- (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
- (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,

the administrator shall as soon as possible after such information has come to that administrator's knowledge —

- (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 subregulation (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.

Notification of fund suspension or liquidation

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

- (a) any suspension of subscriptions, 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.

Activity reports

9. An operator of a retail mutual fund shall submit or cause to be submitted to the Authority within twenty 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 —

- (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.

Compliance statements and declarations

- 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 —
- (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 - ADMINISTRATOR

Appointment of administrator

- 11.** A retail mutual fund shall appoint and maintain an administrator approved by the Authority under section 5(2) (b).

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 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 Act (2023 Revision)* and the principal 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 principal Law;
 - (ii) by these regulations;
 - (iii) by the *Companies Act (2023 Revision)*;
 - (iv) 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) 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 principal 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) under a power conferred on the operator by the constitution; and
 - (ii) consistent with the provisions of the documents referred to in subparagraphs (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, seals 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 an equivalent legislation jurisdiction, 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 the investors.

PART IV - CUSTODIAN

Appointment of custodian

15. A retail mutual fund shall appoint and maintain a custodian which is regulated in —
- (a) the Islands;
 - (b) an equivalent legislation jurisdiction; 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.

Delegation by custodian

- 18.** (1) Subject to any provisions of the constitution, the relevant prospectus, or the subscription agreement to the contrary, the 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 month's 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 competently to discharge its obligations.

PART V - INVESTMENT ADVISER

Appointment of 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 —
- (a) the Islands;
 - (b) an equivalent legislation jurisdiction; or
 - (c) any other jurisdiction approved by the Authority.

Changes in investment adviser

- 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.
- (2) An investment adviser shall not make any change to its directors without the prior approval of the operator of each retail mutual fund it manages.
- (3) The operator of each retail mutual fund shall give notice in writing to the Authority of any proposed change to the Board of Directors of the investment manager of the relevant retail mutual fund not less than one month prior to such change.

Functions of investment adviser

- 21.** (1) An investment adviser shall —
- (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) Subject to subregulation (6), an investment adviser of a retail mutual fund which is a unit trust shall not on behalf of such retail mutual fund —
 - (a) sell any securities short if, as a result of such short sale, the total value of all securities sold short on behalf of such retail mutual fund would immediately following such short sale exceed the value of its net assets;
 - (b) borrow money if, as a result of such borrowing, the aggregate amount of outstanding borrowings effected on behalf of such mutual fund would immediately following such borrowing exceed ten per cent of the value of its net assets, except that —
 - (i) the limitation on borrowing referred to in this sub-paragraph may be exceeded for a period not exceeding twelve months in special situations including, without limitation, a merger of the retail mutual fund with another mutual fund, investment fund or other type of collective investment scheme; and
 - (ii) the limitation on borrowing referred to in this paragraph may be exceeded if —
 - (A) the objective of such retail mutual fund is to invest all, or substantially all, of the proceeds of the issue of its securities in real property, including interests in real property; and
 - (B) the investment adviser considers that any borrowing in excess of such limitation is necessary to ensure the sound management of the assets of such retail mutual fund or to protect the interests of the investors in such retail mutual fund;
 - (c) acquire the shares of any one company which is not an investment company if, as a result of such acquisition, the total number of shares of such company carrying voting rights held by all mutual funds managed by the investment adviser would exceed fifty per cent of the total number of all issued and outstanding shares of such company carrying voting rights;
 - (d) 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 such retail mutual fund would immediately following such acquisition exceed fifteen per cent of the value of its net assets, but the investment adviser shall not be restricted from acquiring any investment where the method of valuation of such investment is clearly disclosed in such retail mutual fund's prospectus;
 - (e) enter into any transactions which are detrimental to the interests of such retail mutual fund's investors or which are contrary to the proper management of the assets of such retail mutual fund including, without limitation, transactions which are intended to benefit the investment

- adviser or third parties other than the investors in such retail mutual fund; or
- (f) enter into any transactions with itself or any directors as principal.
- (5) Subject to subregulation (6), an investment adviser of a retail mutual fund which is a company shall not on behalf of such retail mutual fund —
- (a) acquire the shares of any one company which is not an investment company if, as a result of such acquisition, the total number of shares of such company carrying voting rights held by such retail mutual fund would exceed fifty per cent of the total number of all issued and outstanding shares of such company carrying voting rights;
 - (b) acquire any securities issued by such retail mutual fund; or
 - (c) enter into any transactions which are detrimental to the interests of such retail mutual fund's investors or which are contrary to the proper management of the assets of such retail mutual fund including, without limitation, transactions which are intended to benefit the investment adviser or third parties other than the investors in such retail mutual fund.
- (6) Nothing in subregulation (4) or (5) shall prevent an investment adviser on behalf of a retail mutual fund from acquiring all or any shares, securities, interests or other investments in any company, unit trust, partnership or other person where such company, unit trust, partnership or other person —
- (a) is a mutual fund, investment fund, fund of funds or other type of collective investment scheme;
 - (b) forms part of a master fund or feeder fund or other similar structure or group of companies or entities; or
 - (c) is a special purpose entity which directly facilitates the investment objective or strategy, in whole or in part, of the retail mutual fund.
- (7) 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 specified in subregulation (1)(a) to(e).

Delegation by investment adviser

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



PART VI - FINANCIAL REPORTS

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

Basis of preparation of financial reports

- 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.
- (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.

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 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 Act (2023 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;
 - (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

Appointment of auditor

27. (1) A retail mutual fund shall appoint and maintain an auditor in accordance with section 8(1).
- (2) In approving the appointment of auditor under subregulation (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.

Changes in auditor

28. (1) A retail mutual fund shall give at least one month's prior notice in writing of any proposed change in the auditor to the Authority, the investors and other service providers.
- (2) A retail mutual fund shall not change an auditor without the prior approval of the Authority.

Auditor's consent

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.

Auditor's responsibility

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.

Generally accepted accounting principles

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.
- (2) An auditor shall be responsible for making the determination as to which auditing standards shall be applied in that auditor's audit and, in making that 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.

Auditor's concurrence with selection of generally accepted accounting principles

32. An auditor shall consider, in determining whether or not to accept the appointment as auditor, whether or not that auditor concurs with the choice of generally accepted accounting principles to be applied in preparing the financial statements.

Auditor's independence

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.
- (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.

Additional audit adherence

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.

PART VIII - PROSPECTUS

Prospectus

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



- (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.

Availability of 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.

Content of prospectus

- 37.** A prospectus, in addition to any requirements of law as provided in section 4(7), shall include information relating to —
- (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 subparagraphs (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;
 - (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 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.

Savings and transitional provisions

- 38.** (1) A licence that is in force immediately before the commencement date, of 31st August, 2012, of the *Retail Mutual Funds (Japan) (Amendment) Regulations, 2012* —
- (a) shall have effect from that commencement date as if granted under this Revision; and
 - (b) in the case of a licence for a specified period, shall remain in force, subject to the provisions of this Revision, for so much of that period as falls after 31st August, 2012.
- (2) In regulation 38(1) —
- “**licence**” means a licence of a retail mutual fund.

Publication in consolidated and revised form authorised by the Cabinet this 10th day of January, 2023.

Kim Bullings
Clerk of the Cabinet



ENDNOTES

Table of Legislation history:

SL #	Law/Act #	Legislation	Commencement	Gazette
	56/2020	Citation of Acts of Parliament Act, 2020	3-Dec-2020	LG89/2020/s1
80/2020		Retail Mutual Funds (Japan) (Amendment) Regulations, 2020	22-Jun-2020	LG46/2020/s1
		Retail Mutual Funds (Japan) Regulations (2018 Revision)	27-Mar-2018	GE/25/2018/s6
28/2012		Retail Mutual Funds (Japan) (Amendment) Regulations, 2012	31-Aug-2012	GE84/2012/s5
		Retail Mutual Funds (Japan) Regulations (2007 Revision)	16-Aug-2007	G16/2008/s6
		Retail Mutual Funds (Japan) (Amendment) Regulations, 2006	7-Aug-2006	G16/2006/s8
1/2003		Retail Mutual Funds (Japan) Regulations, 2003	17-Nov-03	G23/2003/s3





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