**L.N. 102 of 1996**

# COMPANIES ACT, 1995
# (ACT NO. XXV OF 1995)

## Companies Act (Investment Companies with Variable Share Capital) Regulations, 1996

IN exercise of the powers conferred by subsection (10) of section 84 and section 188 of the Companies Act, 1995, the Minister of Finance, acting on the advice of the Malta Financial Services Centre, has made the following regulations:—

Citation and commencement.

**1.** (1) These regulations may be cited as the Companies Act (Investment Companies with Variable Share Capital) Regulations, 1996.

(2) These regulations shall be deemed to have come into force on the 1st January, 1996.

Interpretation.

**2.** In these regulations, unless the context otherwise requires:—

"Act" means the Companies Act, 1995;

"base currency" means the currency in which a sub-fund is denominated;

Act No. XIV of 1994.

"competent authority" means the competent authority under the Investment Services Act, 1994;

"currency" means, in addition to the Maltese lira, any convertible currency in terms of section 186 of the Act;

"fractional share" means a fraction of a whole share in any class of shares issued by an investment company with variable share capital;

"SICAV" means an investment company with variable share capital duly licensed in terms of section 4 of the Investment Services Act, 1994;

"sub-fund" means a distinct class of shares in an umbrella or multi-class company to which are allocated assets and liabilities distinct from other assets and liabilities allocated to other classes of shares in the same company and which may pursue investment objectives and adhere to investment policies different from those of other classes of shares in the same company;

"umbrella or multi-class company" means a SICAV falling within the terms of regulation 5 hereunder.

Fractional shares.

**3.** (1) A SICAV may, if so authorized by its memorandum or articles, issue fractional shares up to such number of decimal places, not being less than three, as shall be specified in the memorandum or articles, and under such terms and conditions as may be stipulated therein.

(2) Fractional shares shall be automatically consolidated into a whole share of the same class when the fractional shares held by one shareholder become equal to a whole share.

(3) A fractional share shall carry no voting rights in general meetings of the company.

Company Secretary.

**4.** Notwithstanding anything contained in the definition of company secretary in section 2, and in subsection (3) of section 138 of the Act, a SICAV shall, with the approval of the competent authority, appoint to the office of company secretary, a person holding an investment services licence in terms of section 3 of the Investment Services Act, 1994, authorizing that person to perform the functions of, and to act as, a company secretary, whether or not such a person is an individual.

Multi-class investment companies.

**5.** (1) A SICAV may be constituted as an umbrella or multi-class company, if in terms of its memorandum or articles, its share capital is, or is capable of being, divided into different classes of shares, where each class of shares represents a distinct sub-fund of the company.

(2) A SICAV may only be validly constituted as an umbrella or a multi-class company if it is so licensed by the competent authority.

(3) A SICAV duly licensed to be constituted as an umbrella or multi-class company may, with the approval of the competent authority, establish new sub-funds by the creation and issue of new classes of shares.

(4) Each class of shares representing a sub-fund in any umbrella or multi-class company may be designated in a different currency provided that a class of shares may be designated only in one currency.

Accounts of umbrella or multi-class companies.

**6.** (1) An umbrella or multi-class company having its share capital denominated in different currencies shall draw up its annual accounts in any one of such currencies, as may be approved by the competent authority.

(2) The directors of an umbrella or multi-class company shall maintain proper accounting records of the assets and liabilities of each sub-fund in the base currency of that sub-fund.

(3) The provisions of paragraph (1) hereof shall *mutatis mutandis* apply to the drawing up of any other reports or financial statements which may be required under the Act or by the competent authority.

(4) For the purposes of paragraphs (1) and (3) hereof, the conversion from the base currency of a sub-fund into the currency in which the annual accounts of the umbrella or multi-class company are to be drawn up shall be made by using the exchange rate between the former and latter currencies on the balance sheet date, and such rate shall be the official closing middle rate issued by the Central Bank of Malta. This rate shall be disclosed in the notes to the accounts.

**Ippubblikat mid-Dipartiment ta' l-Informazzjoni — Kastilja** — *Published by the Department of Information — Kastilja*
**Mitbugh fl-Istamperija tal-Gvern** — *Printed at the Government Printing Press*
Prezz 3c – *Price 3c*