



REPUBLIC OF VANUATU

CONSOLIDATION OF THE FRENCH AND ENGLISH TEXTS OF THE LAWS OF VANUATU ACT [CAP 295]

Approval of the English Text of the Mutual Funds Consolidation Edition 2026 Order No. 54 of 2026

In exercise of the powers conferred on me by subsection 9(1) of the Consolidation of the French and English Texts of the Laws of Vanuatu Act [CAP 295], I, the Honourable JOB SAM ANDY, Minister of Youth, Justice and Community Services, make the following Order:

1 Approval of the English Text of the Mutual Funds Consolidation Edition 2026

The English Text of the Mutual Funds Consolidation Edition 2026 is approved.

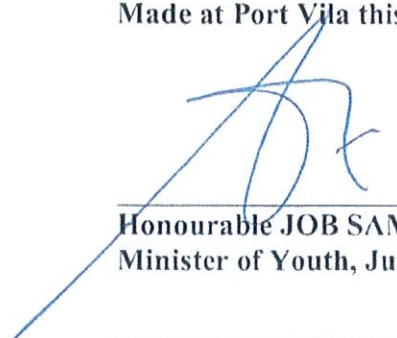
2 Appointed day

The appointed day for the coming into operation of the Mutual Funds Consolidation Edition 2026 is the day on which this Order is made.

3 Commencement

This Order commences on the day on which it is made.

Made at Port Vila this 14 day of April, 2026.


Honourable JOB SAM ANDY
Minister of Youth, Justice and Community Services



Commencement: 5 June 2006



MUTUAL FUNDS ACT NO. 38 OF 2005

Act 38 of 2005
Act 26 of 2017
Act 29 of 2018

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MUTUAL FUNDS ACT NO. 38 OF 2005

To provide for the registration and regulation of mutual funds.

PART 1 – PRELIMINARY

1. Interpretation

(1) In this Act, unless the contrary intention appears:

“administrator”, for a mutual fund, has the meaning given by section 2.

“beneficial owner” has the meaning given by section 1A.

“Commission” means the Vanuatu Financial Services Commission.

“confidential information” means information that is supplied to or obtained by the Commission in the performance of its functions or the exercise of its powers under this Act, but does not include information that:

- (a) can be disclosed under any provision of this Act; or
- (b) is already in the public domain; or
- (c) consists of aggregate data from which no information about a specific person or business can be identified.

“Court” means the Supreme Court.

“domestic regulatory authority” means a body or agency established by or under a law of Vanuatu that:

- (a) grants or issues under that law or any other law licences, permits, certificates, registrations or other equivalent permissions; and
- (b) performs any other regulatory function related to a matter referred to in paragraph (a), including developing, monitoring or enforcing compliance with standards or obligations prescribed by or under that law or any other law.

“equity controller”, for a mutual fund, means a person who holds or is likely to hold more than 10% of the equity interests in the fund.

“equity interest” means a share, trust unit or partnership interest that:

- (a) carries an entitlement to participate in the profits or gains of the company, unit trust or partnership; and
- (b) is redeemable or repurchasable at the option of the investor.

“Financial Intelligence Unit” means the Financial Intelligence Unit established under section 4 of the Anti-Money Laundering and Counter-Terrorism Financing Act No. 13 of 2014.

“foreign government agency” means:

- (a) a body or agency established by or under a law of a foreign country; or
- (b) an arm, ministry, department or instrumentality of the government of a foreign country; or
- (c) a body or agency of a foreign country set up by administrative act for governmental purposes.

“foreign mutual fund” means a mutual fund that is constituted outside Vanuatu and operates in Vanuatu.

"foreign serious offence" means:

- (a) an offence against a law of another country that, if the relevant act or omission had occurred in Vanuatu, would be an offence against the laws of Vanuatu, for which the maximum penalty is imprisonment for at least 12 months; or
- (b) an offence prescribed by the Regulations.

"foreign tax evasion offence" means conduct that:

- (a) amounts to an offence against a law of a foreign country; and
- (b) relates to a breach of a duty relating to a tax imposed under the law of the foreign country (whether or not that tax is imposed under a law of Vanuatu); and
- (c) would be regarded by the courts of Vanuatu as an offence of fraudulent evasion of tax for which the maximum penalty is imprisonment for at least 12 months, had the conduct occurred in Vanuatu.

"general partner" means a general partner within the meaning of the Partnerships Act [CAP. 92].

"investor", for a mutual fund, means the legal holder of record representing an equity interest in the mutual fund, but does not include a promoter or operator.

"law enforcement agency" means:

- (a) the Vanuatu Police Force; or
- (b) the Office of the Public Prosecutor; or
- (c) the department responsible for customs and inland revenue; or
- (d) the department responsible for immigration; or
- (e) such other persons prescribed for the purposes of this definition.

"licence" means a licence issued under section 6 or 9.

"licensee" means the holder of a licence.

"Minister" means the Minister responsible for finance.

"mutual fund" means a company, a unit trust or a partnership that issues equity interests, the purpose or effect of which is the pooling of investors' funds with the aim of spreading investment risks and enabling investors in the mutual fund to receive profits or gains from the acquisition, holding, management or disposal of investments, but does not include a bank, an insurer within the meaning of the Insurance Act No 54 of 2005 or a trustee.

"mutual fund administration", for a mutual fund, has the meaning given by section 2.

"operator", for a mutual fund, means:

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

"partnership" means a partnership constituted under the laws of Vanuatu or another country.

"promoter", for a mutual fund, means any person whether within or outside Vanuatu who causes the preparation or distribution of a prospectus for the mutual fund or proposed mutual fund, but does not include a legal practitioner, accountant or other professional adviser acting for or on behalf of that person.

"prospectus", for a mutual fund, means a document, or series of documents, on the basis of which:

- (a) equity interests in the mutual fund are offered for sale; or
- (b) persons are invited to subscribe for, or purchase equity interests in, the mutual fund;

but does not include any other advertisement, letter or other communication used in connection with the offer or invitation if, before accepting the offer or invitation, the prospective investor is given the opportunity to consider a prospectus containing information necessary to enable a prospective investor in a mutual fund to make an informed decision whether or not to subscribe for or purchase the equity interest.

“record” means any means by which information may be stored.

“regulatory law” means a law that provides for:

- (a) the grant or issue of licences, permits, certificates, registrations or other equivalent permissions; and
- (b) other regulatory functions related to a matter referred to in paragraph (a), including monitoring or enforcing compliance with standards or obligations prescribed by that law.

Sanctions Secretariat means the Sanctions Secretariat established under section 17 of the United Nations Financial Sanctions Act No. 6 of 2017.

“share” includes an interest in a mutual fund partnership and a unit in a mutual fund unit trust. unit trust means a trust established by a trustee that for valuable consideration issues trust units to enable the participation of unitholders in profits or gains arising from the acquisition, holding, management, or disposal of investments by the trustee.

- (2) An expression used in this Act that is used in the Companies Act No. 25 of 2012 has the same meaning given to it under the Companies Act No. 25 of 2012.

1A. Meaning of beneficial owner

- (1) A beneficial owner of a person or entity is a natural person who ultimately owns or ultimately controls the person or entity.
- (2) For the purpose of this section, control means to exercise influence, authority or power over decisions about the financial or operating policies of a person or entity, including as a result of, or by means of, a trust, agreement, arrangement, understanding or practice.
- (3) For the purpose of this section, own means having a legal entitlement of 25% or more of a person or entity by way of ownership of shares or otherwise, and “ownership” has a corresponding meaning.
- (4) For the purpose of this section, ultimately owns and ultimately controls include circumstances where ownership or control is exercised:
 - (a) through a chain of ownership; or
 - (b) by a means of indirect control that may not have legal or equitable force, or be based on legal or equitable rights.

1B. Registration of “Fund”

- (1) A company, unit trust or partnership that intends to be registered under the name “Fund” must be registered under this Act.
- (2) An application for registration must be made to the Commission:
 - (a) in the prescribed form; and
 - (b) be accompanied by the prescribed fee.
- (3) An application for registration under subsection (2) must specify:

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- (a) the name of the company; and
 - (b) whether the company is a private company, a public company or a community company; and
 - (c) the full name, physical address and postal address of each director of the proposed company; and
 - (d) whether each person named as a director of the company has consented to act as a director of the company; and
 - (e) where a company is appointed as a director, the full name, physical address and postal address of each director; and
 - (f) the full name of every shareholder of the proposed company, and the number of shares to be issued to every shareholder; and
 - (g) full name of every beneficial owner of the proposed company and number of shares to be issued to every beneficial owner; and
 - (h) the details of the nominators of nominee shareholders and nominee directors; and
 - (i) the registered office of the proposed company; and
 - (j) the postal address of the company, which may be the registered office or any other postal address; and
 - (k) in the case of a community company, a statement describing the community interest; and
 - (l) details of the source of funds used to pay the capital of the applicant; and
 - (m) a certified copy of the applicant's passport; and
 - (n) a copy of police clearance of the applicant; and
 - (o) in the case of a body corporate, proof of its incorporation.
- (4) An application that does not comply with this section will be rejected.

2. Administration of mutual funds

- (1) A mutual fund administrator must be:
- (a) a company incorporated in Vanuatu; or
 - (b) a foreign company incorporated outside Vanuatu and registered under Part IX of the Companies Act No. 25 of 2012; or
 - (c) a limited partnership within the meaning of the Partnerships Act [CAP. 92]; or
 - (d) a partnership constituted for the sole purpose of undertaking the administration of mutual funds.
- (2) A person administers a mutual fund if the person:
- (a) manages the mutual fund; or
 - (b) controls all or substantially all of the assets of the mutual fund; or
 - (c) provides general administrative services for the mutual fund; or
 - (d) provides the principal office of the mutual fund in Vanuatu; or
 - (e) provides an operator to the mutual fund.
- (3) A person does not administer a mutual fund if the person:

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- (a) provides a registered office to the mutual fund where the usual corporate, secretarial and related services are provided; or
- (b) files returns and pays fees under the Companies Act No. 25 of 2012; or
- (c) carries out activities as a general partner of a partnership that is a mutual fund.

PART 2 - MUTUAL FUNDS

3. Mutual funds to be licensed

- (1) The operator of a mutual fund must not permit a mutual fund to carry on or attempt to carry on business in or from within Vanuatu unless the fund is licensed under this Act.
- (2) A mutual fund carries on or attempts to carry on business in or from Vanuatu if:
 - (a) it is incorporated or established in Vanuatu; or
 - (b) regardless of its place of incorporation, its administration is carried on in Vanuatu.
- (3) A person who contravenes or fails to comply with subsection (1) is guilty of an offence punishable, on conviction, by a fine not exceeding VT 10 million or imprisonment for a period not exceeding 10 years, or both.

4. Application for a foreign mutual fund licence

- (1) The administrator of a foreign mutual fund may apply to the Commission for a foreign mutual fund licence.
- (2) The application must be in the approved form and be accompanied with:
 - (a) details of where and when the mutual fund was constituted; and
 - (b) details of its licence or registration; and
 - (c) evidence that the licence or registration is in force; and
 - (d) written confirmation by the regulatory authority that issued the licence or registration that the fund is subject to regulation by the authority; and
 - (e) details of each administrator and promoter of the mutual fund; and
 - (ea) details of each beneficial owner of each administrator and promoter of the mutual fund; and
 - (eb) details as required by the Commission on whether a beneficial owner referred to in paragraph (ea) is a beneficial owner of an entity licensed or registered under a regulatory law of Vanuatu or a foreign jurisdiction; and
 - (ec) details as required by the Commission on the source of equity of the mutual fund; and
 - (f) the current prospectus or, if one has not been finally settled, the latest draft of the prospectus, and a summary of the prospectus.
- (3) The Commission may require the applicant to supply further information and documents to enable the Commission to determine whether a licence should be granted.

5. Application for a general mutual fund licence

- (1) A promoter of a general mutual fund may apply to the Commission for a general mutual fund licence.
- (2) The application must be in the approved form and be accompanied with:

- (a) details of each operator, equity controller and promoter of the mutual fund; and
 - (aa) details of each beneficial owner of each operator, equity controller and promoter of the mutual fund; and
 - (ab) details as required by the Commission on whether a beneficial owner referred to in paragraph (aa) is a beneficial owner of an entity licensed or registered under a regulatory law of Vanuatu or a foreign jurisdiction; and
 - (ac) details as required by the Commission on the source of equity of the mutual fund; and
 - (b) a curriculum vitae for each operator or equity controller together with biographical details including proof of identity; and
 - (c) particulars of the mutual fund's management structure; and
 - (d) a copy of the management agreement; and
 - (e) a copy of the fund manager's authorisation; and
 - (f) a copy of the proposed prospectus; and
 - (g) a copy of the business plan for the next three years, giving details of anticipated assets and liabilities and a forecast of income; and
 - (h) details of the procedures that will be in place to ensure that the fund's investment policies are adhered to; and
 - (i) evidence that the mutual fund's investment policies include:
 - (i) adequate diversification of investments; and
 - (ii) restrictions on speculative investments; and
 - (iii) restrictions on the amount of capital that can be borrowed; and
 - (iv) requirements about the capacity of liquid assets to meet general liabilities; and
 - (j) a copy of the audited accounts for the past two years, if the applicant has been in existence for two years; and
 - (k) if the mutual fund is a company, a copy of the memorandum and articles of association and certificate of incorporation; and
 - (l) if the mutual fund is a partnership, a copy of the partnership agreement; and
 - (m) if the mutual fund is a unit trust, a copy of the trust deed.
- (3) The Commission may require the applicant to supply further information and documents to enable the Commission to determine whether a licence should be granted.

6. Issue of foreign and general mutual fund licences

- (1) The Commission may issue a foreign mutual fund licence to the administrator of a foreign mutual fund if the Commission is satisfied that:
- (a) each administrator and promoter of the mutual fund is a fit and proper person; and
 - (aa) each beneficial owner of each administrator and promoter of the mutual fund is a fit and proper person; and
 - (ab) the source of equity of the mutual fund is acceptable; and

- (b) the fund will have a mutual fund administrator in Vanuatu that will be providing an office in Vanuatu for the fund.
- (2) The Commission may issue a general mutual fund licence to the promoter of a general mutual fund if the Commission is satisfied that:
 - (a) each operator, equity controller and promoter of the mutual fund is a fit and proper person; and
 - (aa) each beneficial owner of each operator, equity controller and promoter of the mutual fund is a fit and proper person; and
 - (ab) the source of equity of the mutual fund is acceptable; and
 - (b) the fund will have a mutual fund administrator in Vanuatu that will be providing an office in Vanuatu for the fund; and
 - (c) the arrangements for the administration of the fund are otherwise satisfactory; and
 - (d) if the fund is a company:
 - (i) the fund must at least have two directors; and
 - (ii) the articles of association prohibit the issue of bearer shares.
- (2A) In deciding under paragraphs (1)(a), (1)(aa), (2)(a) and (2)(aa), whether a person is a fit and proper person, the Commission must have regard to:
 - (a) whether the person has been convicted of an offence or is subject to any criminal proceedings; and
 - (b) whether the person is listed on a United Nations Financial Sanctions list, a financial sanctions list under the United Nations Financial Sanctions Act No. 6 of 2017 or a financial sanctions list under a law of any jurisdiction; and
 - (c) any other fit and proper criteria as prescribed by the Regulations.
- (3) A general mutual fund licence and a foreign mutual fund referred to under subsection (1) and (2) are to be issued for a period of 1 year from the date of the issue and may be renewed.
- (4) A foreign or general mutual fund licence is subject to the following conditions:
 - (a) that the fund's administrator will at all times keep an office in Vanuatu for the fund; and
 - (b) for a general mutual fund that is a company:
 - (i) the fund must at least have 2 directors; and
 - (ii) the articles of association prohibit the issue of bearer shares.

PART 3 - MUTUAL FUNDS ADMINISTRATION

7. Mutual fund administrator to be licensed

- (1) A person must not administer a mutual fund in or from within Vanuatu unless the person holds an administrator's licence.
- (2) A licensed mutual fund administrator must administer the mutual fund in accordance with the conditions of the licence.
- (3) A person who contravenes or fails to comply with subsection (1) or (2) is guilty of an offence punishable, on conviction, by a fine not exceeding VT 10 million or imprisonment for a period not exceeding 10 years, or both.

8. Application for licence

- (1) A company or a partnership may apply to the Commission for the grant of a mutual fund administrator's licence.
- (2) An application must be in the approved form and be accompanied with:
 - (a) for a company:
 - (i) details of each director's and manager's qualifications and experience in managing investments; and
 - (ii) details of each director and manager of the company, and each person with a controlling interest in the company; and
 - (iia) details of each beneficial owner of the company; and
 - (iib) details as required by the Commission on whether a beneficial owner of the company is a beneficial owner of an entity licensed or registered under a regulatory law of Vanuatu or a foreign jurisdiction; and
 - (iic) details of the source of funds used to pay the capital of the company; and
 - (iii) evidence that the company's articles of association require at least 2 directors; and
 - (b) for a partnership:
 - (i) details of each general partner's qualifications and experience in managing investments; and
 - (ii) details of each general partner of the partnership; and
 - (iii) details of each beneficial owner of the partnership; and
 - (iv) details as required by the Commission on whether a beneficial owner of the partnership is a beneficial owner of an entity licensed or registered under a regulatory law of Vanuatu or a foreign jurisdiction; and
 - (v) details of the source of funds used to pay the capital of the partnership.
- (3) For the purposes of subparagraph (2)(a)(ii), a person has a controlling interest in a company if the person:
 - (a) has a legal entitlement to 25% or more of the shares in the company, or
 - (b) otherwise exercises influence, authority or power over the company's financial or operating policies.
- (4) The Commission may require the applicant to supply further information and documents to enable the Commission to determine whether a licence should be granted.

9. Issue of administrator's licence

- (1) The Commission may issue an administrator's licence if the Commission is satisfied that:
 - (a) the administrator has sufficient knowledge and experience to be able to administer a mutual fund; and
 - (b) each person referred to in subparagraph 8(2)(a)(ii), 8(2)(a)(iia), 8(2)(b)(ii) or 8(2)(b)(iii) is a fit and proper person; and

- (c) the source of funds used to pay the capital of the company or partnership is acceptable.
- (1A) In deciding under paragraph (1)(b) whether a person is a fit and proper person, the Commission must have regard to:
 - (a) whether the person has been convicted of an offence or is subject to any criminal proceedings; and
 - (b) whether the person is listed on a United Nations Financial Sanctions list, a financial sanctions list under the United Nations Financial Sanctions Act No. 6 of 2017 or a financial sanctions list under a law of any jurisdiction; and
 - (c) any other fit and proper criteria as prescribed by the Regulations.
- (2) A licence remains in force for 1 year from the date of issue and may be renewed.

10. Conditions of mutual fund administrator's licence

An administrator's licence is subject to the following conditions:

- (a) that the licensee must at all times act in good faith and in the interests of the investors in the mutual fund; and
- (b) for each mutual fund the licensee administers, the licensee must:
 - (i) cause annual accounts to be prepared in accordance with generally accepted accounting principles and audited by an independent auditor; and
 - (ii) forward the accounts to the investors in the fund, and lodge a copy with the Commission, within 4 months of the end of the financial year to which they relate; and
 - (iii) if there is a change in the information in the mutual fund licence application form or in the business plan – give the Commission details of the change within 30 days of the change; and
 - (iv) ensure that each current prospectus for equity interests in the mutual fund at all times describes the equity interests accurately, and contains all other information necessary to enable a prospective investor in the mutual fund to make an informed decision about investing in the fund; and
 - (v) file each new or amended prospectus with the Commission within 21 days of its issue by the fund; and
 - (vi) keep records and prepare reports as required by this Act; and
- (c) for the administrator's business, the licensee must:
 - (i) cause annual accounts to be prepared in accordance with generally accepted accounting principles and audited by an independent auditor; and
 - (ii) file the audited accounts with the Commission within 4 months of the end of the financial year to which they relate; and
 - (iii) carry on business in accordance with the information in its licence application; and
- (d) for a licensee that is a company – the licensee must at all times have at least 2 directors.

10A. Administrator to give notice of certain changes to Commission

- (1) The administrator of a mutual fund must give the Commission written notice of a change:
 - (a) to a person referred to in:

- (i) paragraph 4(2)(e) or (ea); or
 - (ii) paragraph 5(2)(a) or (aa); or
 - (iii) subparagraph 8(2)(a)(ii) or (iia); or
 - (iv) subparagraph 8(2)(b)(ii) or (iii); or
- (b) in the circumstances of a person referred to in paragraph (a), that may affect whether the person meets fit and proper criteria; or
- (c) to the source of equity of the mutual fund; or
- (d) to the source of funds used to pay the capital of the administrator,
within 14 days after the change occurs.
- (2) If an administrator fails to comply with subsection (1), the administrator commits an offence punishable upon conviction by:
- (a) if the licensee is a natural person - a fine not exceeding VT 25 million or imprisonment not exceeding 15 years, or both; or
 - (b) in any other case - a fine not exceeding VT 125 million.
- (3) If an administrator fails to comply with subsection (1), the Commission may by notice in writing to the administrator suspend or revoke the administrator's licence under section 19.
- (4) If an administrator does provide the information as required under subsection (1), but the Commission is not satisfied:
- (a) that a person referred to in subparagraph (1)(a)(i), (ii), (iii) or (iv) is a fit and proper person having regard to the matters set out in subsection 6(2A) or 9(1A); or
 - (b) as to the source of equity of the mutual fund; or
 - (c) as to the source of funds used to pay the capital of the administrator,
- the Commission may by notice in writing to the administrator suspend or revoke the administrator's licence under section 19.

11. Duty to report

- (1) A mutual fund administrator must notify the Commission in writing on:
- (a) any concerns it may have regarding the business capability, honesty, good character or conduct of an operator or manager of a mutual fund it administers, or the solvency of that operator or manager or of the mutual fund; and
 - (b) any change in the administration agreement between it and a mutual fund it administers; and
 - (c) the termination of an administration agreement.
- (2) The auditor of a mutual fund must notify the Commission, in writing, if the auditor becomes aware of circumstances likely to affect the solvency of the fund.
- (3) A notification under this section must:
- (a) be made in writing; and
 - (b) be given as soon as practicable after the administrator or auditor becomes aware of the matter.
- (4) If an administrator or auditor of a mutual fund fails to comply with this section, the administrator or auditor commits an offence punishable upon conviction by:

- (a) if the administrator or auditor is a natural person - a fine not exceeding VT 25 million or imprisonment not exceeding 15 years, or both; or
- (b) in any other case - a fine not exceeding VT 125 million.

12. Duty to disclose beneficial interest

A mutual fund administrator must disclose its ownership, beneficial interest and shareholdings in the fund it administers.

13. Restriction on transfer of interest

- (1) A person must apply to the Commission for approval to:
 - (a) transfer or otherwise deal with an interest in a mutual fund administrator; or
 - (b) appoint a new or additional director or manager of a mutual fund administrator;
- (2) The Commission may approve the transfer or dealing, or the appointment, if it is satisfied that the administration of the mutual fund will not be adversely affected.
- (3) If a person transfers or deals with an interest, or appoints a director or manager, without the Commission's approval, the person commits an offence punishable upon conviction by:
 - (a) if the person is a natural person - a fine not exceeding VT 25 million or imprisonment not exceeding 15 years, or both; or
 - (b) in any other case - a fine not exceeding VT 125 million.
- (4) A transfer, dealing or appointment referred to under subsection (1), made without the Commission's approval, is invalid.

14. Mutual fund administrator's returns

- (1) A mutual fund administrator must file the following returns with the Commission:
 - (a) a list of all mutual funds for which it acts, showing all changes that have occurred since the previous list was filed; and
 - (b) a certificate signed by a director or general partner of the administrator stating the best of his or her knowledge and belief that the administrator has conducted the fund's business properly and in compliance with this Act.
- (2) The list and certificate must be filed no later than the first day of March in each year.

PART 4 - SUPERVISION

15. Powers of the Commission

- (1) In the performance of its functions under this Act, the Commission may:
 - (a) at any reasonable time requests a mutual fund administrator or an officer designated by the mutual fund administrator to have access to the books, records, and other documents and financial records of a mutual fund administrator; and
 - (b) at any reasonable time request a mutual fund administrator, or an officer designated by the mutual fund administrator, for the information or explanation the Commission may reasonably require to enable the Commission to perform its functions under this Act; and
 - (c) direct a mutual fund administrator to have an immediate independent audit of the accounts of a mutual fund that it administers, as at the date specified by

the Commission, and to file the accounts with the Commission within the reasonable time the Commission determines; and

- (d) examine the affairs or business of a mutual fund administrator or another person carrying on, or who at any time since the coming into operation of this Act has carried on, the business of a mutual fund administrator, to ensure:
 - (i) that the mutual fund administrator is complying with this Act or the conditions of its licence; or
 - (ii) that the mutual fund administrator is of sound financial position and is carrying on its business in a satisfactory manner.
- (2) A request or direction under subsection (1) must:
 - (a) be made in writing; and
 - (b) state the time within which the request or direction must be complied with.
- (3) A person who refuses or fails to comply with a written request or direction is guilty of an offence punishable, on conviction, by a fine not exceeding VT 2 million or imprisonment for a period not exceeding 2 years, or both.

16. Search warrants

If a magistrate is satisfied on information on oath given by the Commissioner that:

- (a) a mutual fund administrator refuses to comply with a request of the Commission made under section 15(1)(a) to have access to books, records or other documents; or
- (b) there are reasonable grounds for suspecting that an offence against this Part has been or is being committed and that evidence of the commission of the offence is to be found at the premises or in the vehicle, vessel or aircraft specified in the information;

the magistrate may grant a search warrant authorising the Commissioner, together with any other person named in the warrant, to enter and search the premises, vehicle, vessel or aircraft and to seize any books, records or other documents found in the premises, vehicle, vessel or aircraft that are relevant to the inquiry.

17. Examination of affairs of mutual fund administrator

- (1) The Commission must examine the affairs of a mutual fund administrator if the Commission has reasonable grounds for believing that a mutual fund administrator:
 - (a) has ceased to carry on the business for which it was licensed; or
 - (b) is carrying on business while insolvent; or
 - (c) has gone into liquidation, has been wound up or is otherwise dissolved; or
 - (d) has undertaken business other than that for which it was licensed; or
 - (e) has carried on business in contravention of the provisions of this Act or other Acts; or
 - (f) is carrying on business in contravention of any of the conditions of the licence; or
 - (g) is carrying on business in a manner which is likely to be detrimental to the interest of the public, its creditors or investors in a mutual fund; or
 - (h) is carrying on business in a manner which falsely represents its status or licence or which would be deemed as misrepresentation.
- (2) If the Commission examines the affairs of a mutual fund administrator under subsection (1), the Commission may:

- (a) prohibit the mutual fund administrator from accepting any new inward investment in a mutual fund for a period specified by the Commission; and
- (b) appoint (at the expense of the mutual fund administrator) another person to administer the fund in the best interests of the investors in the fund; and
- (c) direct the mutual fund administrator to provide the additional capital or guarantees or other financial support that the Commission considers necessary; and
- (d) direct the mutual fund administrator not to make investments of a specific class or of more than a specified percentage of the fund in any specified class; and
- (e) vary the conditions of the mutual fund administrator's licence and impose new conditions on the licence.

18. Court may make orders preserving assets

- (1) If the Commission is examining the affairs of a mutual fund administrator under section 17, the Commission may apply to the Court for directions.
- (2) The Court may:
 - (a) make orders to protect the interest of:
 - (i) investors in, and creditors of, the mutual fund administered by the mutual fund administrator; and
 - (ii) the creditors of the mutual fund administrator; and
 - (b) order that the assets, books and other papers of the mutual fund and the mutual fund administrator be preserved, and not moved or otherwise disposed of.
- (3) The mutual fund administrator may at any time apply to the Court for the discharge of an order under this section and the Court may discharge, vary or confirm the order.

18A. Commission may request information and documents

For the purpose of performing a function or exercising a power under this Act, the Commission may request information or documents, or both, from any or all of the following:

- (a) the Financial Intelligence Unit;
- (b) a supervisor within the meaning of the Anti-Money Laundering and Counter-Terrorism Financing Act No. 13 of 2014;
- (c) the Sanctions Secretariat;
- (d) a law enforcement agency;
- (e) a domestic regulatory authority;
- (f) a foreign government agency that carries out functions corresponding or similar to the functions carried out by a body or agency referred to in paragraph (a), (b), (c), (d) or (e).

19. Suspension and revocation of licences

- (1) The Commission may suspend or revoke a mutual fund's licence or an administrator's licence, whether as the result of taking action under section 15 or 17 or otherwise:
 - (a) if it appears necessary to do so to protect the interests of investors in the mutual fund; or

- (aa) if the licensee has contravened a provision of the Anti-Money Laundering and Counter-Terrorism Financing Act No. 13 of 2014 and that contravention has resulted in the use of an enforcement measure under Part 10AA of that Act; or
 - (ab) if the fit and proper criteria are not met as required under this Act or Regulations; or
 - (ac) if the Commission is not satisfied of the source of equity of the mutual fund; or
 - (ad) if the Commission is not satisfied of the source of funds used to pay the capital of the administrator; or
 - (ae) if an administrator fails to comply with subsection 10A(1), or provides information under subsection 10A(1) that is not satisfactory to the Commission under subsection 10A(4); or
 - (b) if the Commission is satisfied that any of the circumstances in a paragraph of subsection 17(1) exists.
- (2) Before suspending or revoking a licence, the Commission must give the mutual fund administrator at least 21 days' notice in writing of the proposed suspension or revocation, and request the administrator to provide reasons why the licence should not be suspended or revoked.
- (3) The Commission must take into account any reasons given by the administrator.

PART 5 - MISCELLANEOUS

20. Register

The Commission must maintain a Register of mutual funds and mutual fund administrators licensed under this Act.

21. Appeal to Supreme Court

A person aggrieved by a decision of the Commission under this Act may appeal to the Supreme Court against the decision.

22. Licence to be displayed

The holder of a licence issued under this Act must ensure that the licence is prominently displayed on the premises where the licensee's business is being carried on.

23. Disclosure of confidential information

- (1) The Commission may disclose confidential information if the disclosure:
- (a) is required or authorised by the Court; or
 - (b) is made for the purpose of performing a function or exercising a power under this Act; or
 - (c) is made to the Financial Intelligence Unit for the purpose of performing a function or exercising a power under the Anti-Money Laundering and Counter-Terrorism Financing Act No. 13 of 2014; or
 - (d) is made to a supervisor within the meaning of the Anti-Money Laundering and Counter-Terrorism Financing Act No. 13 of 2014 for the purpose of performing a function or exercising a power under that Act; or
 - (e) is made to a law enforcement agency for the purpose of investigating or prosecuting an offence against a law of Vanuatu for which the maximum penalty is a fine of at least VT 1 million or imprisonment for at least 12 months; or

- (f) is made to a law enforcement agency for the purpose of investigating or taking action under the Proceeds of Crime Act [CAP 284]; or
 - (g) is made to a domestic regulatory authority for the purpose of carrying out its regulatory functions; or
 - (h) is made to the Sanctions Secretariat for the purpose of performing a function or exercising a power under the United Nations Financial Sanctions Act No. of 2017; or
 - (i) is made to a foreign government agency in accordance with section 24.
- (2) A person who contravenes subsection (1) commits an offence punishable upon conviction by:
- (a) for an individual-a fine not exceeding VT 15 million or imprisonment for a term not exceeding 5 years, or both; and
 - (b) in any other case - a fine not exceeding VT 75 million.

24. Disclosure to foreign government agency

The Commission may disclose confidential information to a foreign government agency if:

- (a) the Commission is satisfied that the disclosure is for the purpose of:
 - (i) performing a function or exercising a power under the foreign government agency's own regulatory legislation, including investigating a breach of that legislation; or
 - (ii) performing a function or exercising a power under the foreign jurisdiction's anti-money laundering and counter-terrorism financing regulation and supervision laws; or
 - (iii) performing a function or exercising a power under the foreign jurisdiction's financial sanctions laws; or
 - (iv) investigating or prosecuting a foreign serious offence or a foreign tax evasion offence; or
 - (v) investigating or taking action under the foreign jurisdiction's proceeds of crime laws; and
- (b) the Commission is satisfied that:
 - (i) the information will be used for a proper regulatory, supervisory or law enforcement purpose; and
 - (ii) the agency is subject to adequate restrictions on further disclosure.

25. Indemnity from liability

No person is subject to any civil or criminal liability, action, claim or demand for anything done or omitted to be done in good faith under or for the purposes of this Act.

26. Restriction on use of certain words and titles

- (1) A person who does not hold a licence under this Act must not in the course of his or her business use a word that implies the carrying on of a business as a mutual fund or a mutual fund administrator.
- (2) A person who contravenes or fails to comply with subsection (1) is guilty of an offence punishable, on conviction, by a fine not exceeding VT 2 million or imprisonment for a period not exceeding 2 years, or both.
- (3) The Commission may refuse to issue a mutual fund licence to an applicant in a name that:

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- (a) is identical to the name of a company, firm, business or other entity, whether or not within Vanuatu, or so nearly resembles the name of a company, firm, business or entity as to be likely to deceive; or
 - (b) is likely to suggest, falsely, the patronage of or connection with some person or authority, whether within Vanuatu or elsewhere; or
 - (c) is likely to suggest, falsely, that the fund has a special status in relation to or derived from Government.
- (4) If a mutual fund is carrying on business in or from within Vanuatu in a name that the Commission would have refused because of subsection (3), the Commission may direct the mutual fund to change its name to a name that is not mentioned in subsection (3).
- (5) A person who refuses or fails to comply with a direction under subsection (4) is guilty of an offence punishable, on conviction, by a fine not exceeding VT 1 million or imprisonment for a period not exceeding 1 year, or both.

27. Offences

If a person in compliance or purported compliance with this Act makes a representation that the person knows to be false or does not believe to be true, the person commits an offence punishable upon conviction by:

- (a) for an individual-a fine not exceeding VT 15 million or imprisonment for a term not exceeding 5 years, or both; and
- (b) in any other case - a fine not exceeding VT 75 million.

27A. Penalty Notice

- (1) The Commission may serve a penalty notice on a person if it appears to the Commission that the person has committed an offence under any provision of this Act.
- (2) A penalty notice may be served personally or by post.
- (3) The Minister may by Order prescribe penalties which a person is required to pay under this section, which must not exceed:
 - (a) VT 200,000 for an individual; or
 - (b) VT 1 million for a body corporate,within 30 days after the date on which the notice was served.
- (4) If the amount of penalty referred to in subsection (3) is paid, that person is not liable to any further proceedings for the alleged offence.
- (5) Payment made under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any proceeding arising out of the same occurrence.
- (6) The Commission may publish a penalty notice issued to a person in such manner as the Commission determines.
- (7) If a penalty notice has been served on a person, a prosecution in respect of the alleged offence may only be commenced if the penalty remains unpaid 30 days after the penalty was due, and the Court may take account of any unpaid penalty when imposing a penalty in respect of the offence.
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

28. Fees

The following fees are payable under this Act:

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- (a) for a foreign mutual fund licence or a general mutual fund licence – USD1,000; and
- (b) for a mutual fund administrator’s licence – USD1,000; and
- (c) for the annual renewal of a mutual fund licence – USD1,000; and
- (d) for the annual renewal of a mutual fund administrator’s licence – USD1,000.

29. Regulations

The Minister may make regulations prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be provided for the carrying out or giving effect to this Act.

Table of Amendments

1(1)	Amended by Act 26 of 2017	9(1)(a)	Amended by Act 26 of 2017
1A	Inserted by Act 26 of 2017	9(1)(b)	Substituted by Act 26 of 2017
1B	Inserted by Act 29 of 2018	9(1)(c)	Inserted by Act 26 of 2017
4(2)(e)	Substituted by Act 26 of 2017	9(1A)	Inserted by Act 26 of 2017
4(2)(ea)- (ec)	Inserted by Act 26 of 2017	10A	Inserted by Act 26 of 2017
4(3)	Inserted by Act 26 of 2017	11(4)	Substituted by Act 26 of 2017
5(2)(a)	Substituted by Act 26 of 2017	13(3)	Amended by Act 26 of 2017
5(2)(aa)- (ac)	Inserted by Act 26 of 2017	18A	Inserted by Act 26 of 2017
5(2)(b)	Amended by Act 26 of 2017	19 (heading)	Substituted by Act 26 of 2017
6(1)(a)	Substituted by Act 26 of 2017	19(1)	Amended by Act 26 of 2017
6(1)(aa) and (ab)	Inserted by Act 26 of 2017	19(1)(aa) - (ae)	Inserted by Act 26 of 2017
6(2)(a)	Substituted by Act 26 of 2017	19(2)	Amended by Act 26 of 2017
6(2)(aa) and (ab)	Inserted by Act 26 of 2017	23	Substituted by Act 26 of 2017
6(2A)	Inserted by Act 26 of 2017	24	Substituted by Act 26 of 2017
8(2)(a)(ii)	Substituted by Act 26 of 2017	25	Substituted by Act 26 of 2017
8(2)(ia) - (iic)	Inserted by Act 26 of 2017	27	Substituted by Act 26 of 2017
8(2)(b)(ii)	Substituted by Act 26 of 2017	27A	Inserted by Act 29 of 2018
8(2)(b)(iii)- (v)	Inserted by Act 26 of 2017	Whole of the Act	Amended by Act 29 of 2018
8(3) and (4)	Inserted by Act 26 of 2017		Companies Act [CAP 191] replaced with Companies Act No. 25 of 2012
9(1)	Amended by Act 26 of 2017		

Transitional Provisions

- Act 26 of 2017
- (1) *This provision applies to a licensee if, immediately before the commencement of this Act, the licensee’s licence was in force under the Mutual Funds Act No. 38 of 2005.*
 - (2) *Within 6 months after the commencement of this Act, the licensee must provide the Commission with the information for licensee’s licence required under:*
 - (a) *paragraph 4(2)(e), (ea), (eb) and (ec); or*
 - (b) *paragraph 5(2)(a), (aa), (ab) and (ac); or*
 - (c) *subparagraph 8(2)(a)(ii), (ia), (ib) and (ic); or*
 - (d) *subparagraph 8(2)(b)(ii), (iii), (iv) and (v),**of the Mutual Funds Act No. 38 of 2005 as amended by this Act (“the additional information”).*
 - (3) *If the licensee does not provide the additional information as required under subsection (2), the Commission may by notice in writing to the licensee revoke the licensee’s licence.*
 - (4) *If the licensee does provide the additional information as required under subsection (2), but the Commission is not satisfied with the additional information having regard to the matters set out in paragraphs 6(2)(a), (aa) and (ab), or paragraphs 9(1)(b) and (c), of the Mutual Funds Act No. 38 of 2005 as amended by this Act, the Commission may by notice in writing to the licensee revoke the licensee’s licence.*
 - (5) *Subsections 19(2) and (3) of the Mutual Funds Act No. 38 of 2005 as amended by this Act apply to a revocation.*
 - (6) *A term or expression used in this item has the same meaning as in the Mutual Funds Act No. 38 of 2005 as amended by this Act.*