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IN THIS ISSUE

- The Contracts (Rights of Third Parties) Bill, 2014 proposes changes to Cayman contract law
- Proposed introduction of a new Exempted Limited Partnership Law

The Contracts (Rights of Third Parties) Bill, 2014 proposes changes to Cayman contract law

The Cayman Islands Government has published a new bill that will modify contract law in the Cayman Islands when it is passed into law by mid-March 2014.

Currently, under common law, a person must be party to a contract in order to be able to enforce the provisions of that contract. This applies even where the parties to the contract clearly intended that a person who is not party to such contract be given rights under the contract. The Contracts (Rights of Third Parties) Bill 2014, when passed into law, will enable the parties to a contract which gives persons who are not direct parties to that contract the ability to enforce rights expressly granted to them in the contract.

The Contracts (Rights of Third Parties) Bill 2014 provides for the right of a third party to enforce a contractual term, provided that the contract specifically provides in writing that he or she may. However a term of a contract purporting to confer a benefit on a third party will not in itself be sufficient to enable the third party to enforce the term. Only terms which are expressed in writing in the contract to be capable of enforcement by the relevant third party will be so enforceable.

In the investment funds context, the new law is expected to be particularly beneficial in dealing with indemnity and exculpation provisions of limited partnership agreements and shareholders agreements which commonly seek to benefit a wider class of persons than the parties to the agreement itself (e.g. investment manager, each of its affiliates, and each officer, director, employee, agent, stockholder, partner or member thereof). The new law should remove the need for separate agreements to deal with indemnity and exculpation provisions.

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Introduction of a new Exempted Limited Partnership Law

The Cayman Islands Government has published The Exempted Limited Partnership Bill, 2014 that, once passed into law by mid-March 2014, will make certain changes to the law governing exempted limited partnerships with the following principal objectives.

- To confer even greater contractual flexibility on the partners.
- To reflect some developing trends in the formation, regulation and operation of private funds.

A detailed briefing note will be issued on introduction of the new laws

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