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Amendments to reduce certificate requirements for Alberta limited partnerships now in force

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On June 1, 2021, amendments (the "**Amendments**") to the *Partnership Act* (Alberta) (the "**Act**") were proclaimed into force that have the welcome effect of substantially reducing the disclosure required to be set out in the publicly filed certificate of limited partnership (a "**Certificate**) for limited partnerships established under the Act.[1] The Amendments address longstanding concerns with respect to the extent of the information previously required to be included in the Certificate, which often resulted in disclosure of complex arrangements and other internal affairs of the limited partnership that could be commercially sensitive.

The Amendments also address the applicability of the laws of other jurisdictions to limited partnerships registered as extra-provincial limited partnerships in Alberta.

Reduction of Disclosure Requirements in Certificate of Limited Partnership

Crucially, the Amendments reduce and simplify the disclosure required to be set out in the Certificate to be filed in order to form a limited partnership under the Act in Alberta, and eliminate the subsequent need to file amendments to the Certificate in the case of most changes to a limited partnership that were required to be disclosed under the former Act, such as changes in the amount or character of the contribution of any limited partner.

The Amendments now only prescribe the following, less onerous, disclosure in a Certificate, which more closely aligns Alberta's requirements with other Canadian jurisdictions, such as Ontario:

1. the name of the limited partnership;
2. the name, email address and street address or postal address of each general partner; and
3. a statement confirming that the limited partnership agreement (a "**LPA**") among the partners of the limited partnership contains certain prescribed information.

The information required to be set out in the LPA prescribed by the amended regulations to the Act (the "**Regulations**") is the same information that was previously required to be set out in the publicly filed Certificate.

Practically, most LPAs will already contain provisions addressing the information now prescribed under the amended Regulations. Accordingly, the amended Regulations should

not impose any new requirements on parties seeking to form an Alberta limited partnership under the Act, and most existing Alberta limited partnerships should not have to amend their existing LPAs to comply with the amended Regulations.

Under the Amendments, the circumstances giving rise to a need to file an amendment in respect of a Certificate also have been significantly reduced. The Amendments now only require that a Certificate be amended under the following circumstances:

1. there is a change in the information stated in the Certificate;
2. a person is added as a limited partner; and
3. a person is added as a general partner.

Notwithstanding that the Amendments eliminate the requirement to include the name and address of each limited partner in the Certificate, the Act continues to require that the Certificate be amended when persons are added as limited partners, and that the Certificate and any amendments be signed by all of the partners of the limited partnership. However, note that the Act also continues to permit an actual or proposed partner of a limited partnership to give a special authority (i.e., by way of a power of attorney) to any person to execute any Certificate on behalf of such partner. Common practice in Alberta has been to include such authority in the LPA to permit the general partner of a limited partnership to execute the Certificate and any necessary amendments on behalf of all limited partners.

While the Amendments have eliminated the need for extensive disclosure to be provided in a Certificate, it is important to note that the amended Regulations now provide that a limited partnership may be required to file a copy of its LPA with the Alberta Registrar. As limited partnerships are commonly used as investment vehicles, this requirement may raise fresh concerns by investors as to the confidentiality of sensitive commercial information contained in LPAs. Unfortunately, no further guidance has been provided by the Alberta government as to when this obligation may arise, or if any LPAs required to be filed will be publicly available in the Alberta corporate registry. While the Amendments contemplate that additional regulations may be made to address the transition to the amended Act, as of the date of this update, no such regulations have been published by the Alberta government.

Extra-Provincial Limited Partnerships

The Amendments also provide further clarity on the law as it applies to extra-provincial limited partnerships. The Amendments provide that the law of the jurisdiction where an extra-provincial limited partnership was formed applies both in respect of the organization and internal affairs of the limited partnership, and to the liability of the limited partners of the limited partnership. As the Act provides that an extra-provincial limited partnership registered in Alberta has the same rights and is subject to the same duties, restrictions and liabilities under the Act as an Alberta limited partnership, this amendment provides greater certainty under circumstances where there may be discrepancies between the law of the home jurisdiction of the extra-provincial limited partnership and the Act, including with respect to the liability of the limited partners of such extra-provincial limited partnership, all of which favors the law of the home jurisdiction.

Conclusion

It is still early days in terms of the administrative practice of the Alberta Corporate Registry, the filing requirements through the Alberta Corporate Registries System (CORES), and whether details of filed Certificates and any amendments will be available publicly. In particular, it is unclear whether a copy of the LPA will be required to be filed and, if this is ultimately the case, these amendments may well be one step forward in terms of simplifying

filing requirements, but two steps back in terms of LPA disclosure.

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[1] Bill 22, *Red Tape Reduction Implementation Act, 2020*, 2nd Sess, 30th Leg, Alberta, 2020, s. 13 (assented to 23 July 2020), (online); *Partnership Amendment Regulation*, OC 146/2021 (*Partnership Act*), (online)