

**THE PROPER MANAGEMENT OF AMUTOT
(NON-PROFIT ASSOCIATIONS)**

Third Edition: June 2010

Editors: Advocate Avital Schriber, Advocate Gali Gross, Advocate Shlomi Bielawsky

TABLE OF CONTENTS

Introductory Remarks by the Head of the Corporations Authority	4-6
Preface	7-8
Institutions of the Amuta	9-20
General	9
General Assembly	10
Authority of the General Assembly	10-11
Executive Board	11-12
Authority and Functions of the Executive Board	13
Responsibilities of the Executive Board Members	14
Indemnification and Insurance	14-15
Term of Office of the Executive Board	15
Authorized Signatories	15-16
Audit Committee or Audit Body	16-17
Authority and Functions of the Audit Committee/Audit Body	17-19
Auditor	19
Right of Scrutiny of the Documents of the Amuta	20
Name, Objectives and By-Laws of the Amuta	21-26
Use of the Name of the Amuta	21
Objectives of the Amuta	21-22
Use of the Amuta's Assets for Promotion of its Objectives	22-25
Acting in Accordance with the By-Laws of the Amuta	25-26
Existence of Written Procedures	26
Submission of Documents to the Registrar of Amutot (Non-Profit Associations)	27-29
The Statutory Requirements	27-28
Submission of Documents for the Purposes of Obtaining Certification of Proper Management	28-29
Annual Fee	29
The Accounting System and Preparation of the Financial Statements and Verbal Reports	30-33
General Principles in relation to Financial Management	30
Keeping Records in Accordance with the Second Addition to the Law	30
Preparation of the Financial Statements	31
Accounting Opinion No. 69 and Standard 5	31-32
Consolidated Financial Statements	33
The Verbal Report	33
The Use of the Funds and Assets of the Amuta	34-36
Opening of Bank Accounts	34
Use of Cash and Checks	34
Transfer of Moneys from the Bank Account	34
Use of Credit Cards	34-35
General & Administrative Expenses	35-36
Payment of Remuneration to Executive Board Members, the Chairman of the Executive Board and Members of the Audit Committee	37-39
Reimbursement of Expenses in Relation to Participation in Meetings	39-41
Reimbursement of Expenses in Connection with Promoting the Objectives of the Amuta	41
Transfers of Funds or Assets to Other Corporate Bodies Without Payment	41-42
Loans	42-43
Manner of Payment of Stipends	43
Donations	43-44
Donations from a Foreign State Entity	44-45

Registration of the Amuta's Assets	45
Preservation of the Amuta's Assets	45-46
Amuta Appointed as Trustee of a Public Endowment	46
Family Relationship and Conflict of Interests	47-49
General	47
Family Relationship	47
Engagement of Employees	48
Family Relationship Between Executive Board Member and Audit Committee Member	48
Family Relationship within the Executive Board and within the Audit Committee	49
Other Conflict of Interests Situations	49
Special Provisions	50-53
Dual-Purpose Body	50
Special Law Applicable to Certain Amutot	51
Merger of Amutot	51
In-depth Audit on behalf of the Registrar of Amutot	52-53
Certification as to submission of documents	53
Rehabilitation of an Amuta	54-55
General	54
Examples of types of shortcomings and rehabilitation schemes	54-55
Administrative Fines	56
Liquidation and prohibition of sale of the Amuta	57-62
Liquidation at Amutas' Initiative	57
Process of Voluntary Liquidation	57-61
Prohibition of Sale of an Amuta	62
Prohibition of Transfer of the Amuta's Assets to its Members after Liquidation	62

INTRODUCTORY REMARKS BY THE HEAD OF THE CORPORATIONS AUTHORITY

The Corporations Authority, which was established by the Government in April 2006, is the Governmental Authority that handles the registration and supervision of corporate bodies in Israel. The Authority is in the midst of a process of reform and adaptation to the legal, economic and technological reality of the 21st Century.

The Corporations Authority is structured in two main branches. The business branch includes units consisting of the Registrar of Companies, the Registrar of Partnerships and the Registrar of Pledges, and the Non-Profit Organizations branch including units consisting of the Registrar of Amutot, the Public Benefit Companies, the Registrar of Endowments .

The unification of the units detailed above stems from the perception of the necessity for reorganization, both conceptually and structurally of the way in which the State deals with corporate bodies, both those that are commercially based and that those that are non-profit organizations. The significant processes that the Authority is promoting and the adjustment of the Government systems dealing with the registration and supervision of corporations to the current legal, economic and technological realities that are compatible with the present day corporate world, will bring about a leap forward for the units comprising the Corporations Authority, both in terms of regulations of the activities of the corporations in Israel and in an improvement in the service to the public dealing with the Authority in its various and diverse characteristics.

Wherever in this manual reference is made to “The Registrar of Amutot” – the intention is to refer to the authority vested in the Head of the Corporations Authority as the Registrar of Amutot and the actions taken through the non-profit organizations branch and its departments.

In 1998 the Government of Israel decided that Amutot wishing to receive support from the State must produce a certificate of proper management from the Registrar of Amutot. Subsequently, in the context of other Government decisions, the Government broadened the requirements for the existence of certification as to proper management, also to Amutot from whom the State was purchasing services.

The imposition of the aforementioned obligation, in practical terms, turned the certification of proper management into a precondition for Amutot who wished to enjoy the benefit of State support or to provide services to the State.

The main idea behind the above Government decisions is that along with encouragement of the welcome activities engaged in by many Amutot there is an automatic need for action to be taken so that public funds that are transferred from the State either directly or indirectly will reach those Amutot that are acting properly and in accordance with the Amutot (Nonprofit Societies) Law.

The Employees of the Corporations Authority see their work as a public endeavor in order to ensure that activities of the Amutot in Israel are carried out in accordance with the Law. The function of employees of the Registrar of Amutot Unit in the Authority is, *inter alia*, to ensure that the public funds given to Amutot, either via State allowances or by donations from the public, reach Amutot that are acting correctly in accordance with proper management procedures and will be used to promote the aims and goals for which they were provided.

The emphasis that has been placed in recent years on the proper management of Amutot and the imposition of sanctions against Amutot that have not been so administered, has led to a situation in which the majority of Amutot in Israel submit to the Registrar of Amutot such documents as are necessary, and are being administered in accordance with the Law.

We in the Corporations Authority carry out pro-active and other examinations of the Amutot and wherever it appears that Amutot are not acting in accordance with the Amutot Law and the directives issued by the Registrar, we deny them the right to obtain a certificate of proper management. It should be pointed out that where necessary various sanctions are imposed on Amutot that are acting unlawfully as well as upon those responsible for the irregularities, such as the imposition of an administrative fine and where necessary even the institution of liquidation proceedings against the Amutot.

Approximately four years ago the Corporations Authority published a procedures manual setting out in detail the rules for the proper management of non-profit organizations. As of now, we are honored to be launching a full and up to date compilation containing the directives and the legislative changes that have occurred since the issue of the previous manual. This up to date compilation of the rules regarding proper management will also be presented to the public through the internet website of the Registrar of Amutot Unit at the Corporations Authority. It is our intention to update this manual regularly on an ongoing basis as far as there are any changes in terms of the Law, regulations or the procedures and to publish it regularly on the internet website of the Corporations Authority.

The manual contains the main topics in relation to management of Amutot as well as answers to the most prevalent questions on the subject of proper management. Obviously, it reflects the legal position at the time of writing and it will be updated again as necessary, as previously mentioned, in the future. However, the manual does not constitute nor is it capable of constituting an alternative for individual, specialized, ongoing and up to date legal advice.

The Corporations Authority attaches major importance to the updating of the public regularly as to the rules of proper management and as to the existence of a rules manual available to the public and which is regularly updated.

I hope that this manual will be of great assistance to those Amutot wishing to obtain certification of proper management or in improving their administration and functioning, and to those to whom the proper management of non-profit organizations in Israel is important.

The Corporations Authority, the Registrar of Amutot Unit and its dedicated staff will continue to assist the public requiring the Authority's Services, faithfully, professionally and diligently.

Sincerely yours,

Alon Bachar, Advocate
Head of the Corporations Authority
Registrar of Amutot

PREFACE

As a result of the findings of the State Comptroller in Annual Report No. 48 on the subject of support from the State Budget and State benefiting Estates, and further to the deliberations of the Ministerial Committee for State Comptrol, the Government, in Decision 4418 (BK/128) resolved, on October 15, 1988, that commencing from the 1999 Budget Year, bodies applying for support from a Government Ministry would be required to present a Certificate issued by the Registrar of Amutot. It was further stipulated in the above decision that the Registrar of Amutot would examine, in accordance with the procedures and criteria that were to be formulated by him, whether the Amuta meets all the requirements of the Law, and whether the assets and income of the Amuta are being utilized solely for the goals of the Amuta.

The certificate which is issued by the Registrar to Amutot after an examination has found that they meet the requirements is called a "Certificate of Proper Management".

In a Government Decision dated July 18, 2001 the obligation to present a Certificate of Proper management was widened to encompass Amutot that provide services to Government Ministries.

Other bodies exist that make the transfer of funds to Amutot conditional on the furnishing of a Certificate of Proper management. Thus for example, the Finance Committee of the Knesset requires a Certificate of Proper Management from Amutot seeking special status under Section 46 of the Income Tax Ordinance (under which a donor to such an Amuta is entitled to a tax deduction in respect of his donation), and also Local Authorities, the Sports Betting Council and Large Foundations. On some occasions, private donors also decide to limit their donations and to transfer funds only to Amutot that are in possession of a Certificate of Proper Management.

As a result of the Government's decisions and pursuant to the powers vested in the Registrar of the Amutot under the Amutot Law, the Registrar of Amutot Unit conducts periodic examinations of the Amutot. The Unit issues certificates of Proper management to Amutot that meet the requirements of the Law in all matters pertaining to the furnishing of such documents as they are required to furnish each year in accordance with the Law, and it revokes certificates when it becomes evident that shortcomings exist in the management of the Amuta. In a case of shortcomings, apart from a refusal to issue a certificate, or revocation of an existing certificate, additional steps are taken against the Amutot, and include: appointment of an investigator, imposition of an administrative fine (which may also be imposed on members of the Executive Board), institution of liquidation proceedings or a demand that the Amuta comply with a recovery scheme. It should be pointed out that such periodic examinations, for the purpose of checking compliance with the statutory requirements, are carried out in relation to all the Amutot, and not only those applying for a Certificate of Proper Administration.

The sources for the obligations imposed on the Amutot, are as follows:

1. The Amutot (Non-Profit Organizations) Law, 5740-1980, and the regulations made pursuant thereto.
2. Rules of Proper management – This obligation also stems, *inter alia* from the Amutot Law, in Section 27 which states that “Executive Board **members shall act in the interest of the Amuta, within the framework of its objectives, in accordance with its By-Laws and the decisions of the General Assembly**”, as well as stemming from rules formulated by the Registrar of Amutot pursuant to the Government decision in relation to the Certificate of Proper Management, requirements of the Budgeting Government Ministries and the decisions of the Courts, which has widened the obligations imposed on certain types of Amutot, and in general.
3. Other Laws and Regulations and *inter alia* Laws that include special requirements in relation to a particular activity, such as on the subjects of adoption, burial societies, curing of drug addiction, sport etc.

This manual will deal with the requirements imposed on Amutot under the Amutot Law and the rules of proper management, and with a number of other matters connected with the activity of Amutot and with the contact that they have with the Registrar of Amutot Unit.

It should be noted that Public Benefit Companies (PBC) are under the supervision of the non-profit organization branch in the Corporations Authority. The status of a Public Benefit Company, and the Laws applicable to it, were governed in Amendment No. 6 to the Companies Law, dated June 21, 2007. It is possible to, and it is recommended, that the provisions of the Amendment to the Law should be studied on the internet website of the Unit. A Public Benefit Company is a body that must *inter alia* operate in accordance with its by-laws for the benefit of a public purpose consisting of one of the public purposes specified in the Schedule to the Companies Law and in respect of whom it is prohibited to distribute profits. In Amendment No. 6 to the Companies Law the reporting obligations of Public Benefit Companies were compared to the reporting obligations applicable to Amutot. There are distinctions that exist between a Public Benefit Company and an Amuta, originating in the various statutory provisions that apply to them.

Public Benefit Companies are also required to present a Certificate of Proper Management as a condition of receipt of various budget allocations.

In principle, the same policy and the same rules of proper management apply both to Amutot and to Public Benefit Companies, except in cases in which the provisions of the Companies Law expressly provide otherwise.

It is the intention of the Non-Profit Organization Branch to require of the Public Benefit Companies that they gradually comply with such rules of proper management as are required currently of Amutot, and to carry out in-depth audits that will verify compliance with them.

INSTITUTIONS OF THE AMUTA

General

An Amuta is defined in Section 1 of the Amutot Law as a corporate body established by two or more persons for a lawful purpose that is not aimed at the distribution of profits to its members and whose main objective is not the making of profits.

The three main characteristics of an Amuta are:

1. Prohibition of the distribution of profits.
2. Performing only activities that are within the framework of the goals that have been approved for the Amuta.
3. Membership of an Amuta is personal, and may not be transferred to another. By contrast with bodies that are incorporated as companies, a member of an Amuta has no proprietary right in the Amuta.

Section 19 of the Amutot Law states that every Amuta must have at least three institutions:

1. A General Assembly.
2. An Executive Board.
3. An Audit Committee (or an Audit Body, that can be an Auditor or another body approved by the Registrar of Amutot).

An Amuta may establish other institutions. In the event of an Amuta wishing to establish other institutions, it must make provision in its By-Laws governing the matter, approved by the Registrar of Amutot.

In relation to Amutot that have a financial turnover of more than NIS 1 million (the exact amount is updated annually), an obligation exists in addition to the above-mentioned, to appoint an Auditor (CPA), in order to carry out an audit of the Financial Statements of the Amuta.

According to the Auditors Regulations,¹ as a general rule, the Auditor carrying out the audit of the Financial Statement is not allowed to be the Amuta's Bookkeeper, provided that where the financial turnover of the Amuta is up to NIS 5 million, a person as well as another partner of the Accountancy Firm, that is not part of the auditing team that audited the Financial Statement, may carry out the bookkeeping. In an Amuta whose financial turnover for the year exceeds NIS 5 million, as a general rule, the bookkeeping can not be carried out by other persons from the same Accountancy Firm.

¹ Auditors Regulations (Conflict of Interests and Infringement of Independence as a Result of Other Employment) 5768-2008, published in Subsidiary Legislation 5768, page 608.

General Assembly

The General Assembly is a body that includes all members of the Amuta. Members of the Amuta are the persons who established the Amuta as well as any person who has applied to the Amuta for acceptance as a member of it, and has been accepted by the duly empowered body for such purpose under the By-Laws of the Amuta, with the exception of those persons whose membership in the Amuta has ceased. Under Section 15 of the Law, all persons over 17 years old and all corporate bodies are qualified to be members of an Amuta irrespective of whether or not they are citizens of Israel. Cessation of membership in the Amuta may be by reason of death of the member, his resignation, or by his ousting from the Amuta in accordance with the provisions of the By-Laws of the Amuta. Convening of the General Assembly shall occur in accordance with the provisions of Section 20 of the Law and in accordance with additional provisions, if any, in the By-Laws. The convening of the General Assembly will occur at the times specified in the By-Laws of the Amuta and if no provisions have been stipulated with regard to the time of its convening, it shall be convened at least ten days in advance, in accordance with the provisions of the Model By-Laws (regarding provisions as to to a General Assembly that deals with voluntary liquidation – see below in the chapter entitled “Voluntary liquidation and Prohibition of Sale of the Amuta”). In the summons convening the meeting the subjects that will be placed on the Agenda of the General Meeting shall be set out in detail.

Authority of the General Assembly

1. Deciding the number of members of the Executive Board, and election of the Executive Board of the Amuta in accordance with Section 26(a) of the Law (unless a provision has been prescribed in the By-Laws under which members of the Committee of the Amuta are to be appointed by another person or body, or where it has been prescribed in the By-Laws that a person holding a defined office will be a member of the Executive Board for as long as he is serving in such office. In any event, determination of the number of members of the Executive Board is a matter that is vested in the General Assembly, unless their number has been expressly prescribed in the By-Laws, provided that in any event there shall be at least two members on the Executive Board).
2. Election of the Audit Committee or Audit Body pursuant to Section 31 of the Law.
3. Appointment of an Auditor under Section 31A of the Law, in an Amuta that must appoint an Auditor under Section 19(c) of the Law, and the fixing of his remuneration.
4. Approval of the Annual Financial Statements and the Verbal Reports under Sections 36(a) and 37A of the Law.

5. Adoption of resolutions as to a change in the By-Laws, objectives or name of the Amuta.
6. Approval of remuneration for members of the Executive Board or members of the Audit Committee in respect of their positions in accordance with the Regulations of Amutot (Remuneration of Chairman of Executive Board, Executive Board Member and Audit Committee Member), 5769-2009 (the Regulations can be scrutinized on the internet website of the Unit), and determination of procedures in relation to reimbursement of expenses in accordance with the said Regulations.
7. Under Section 28 of the Amutot Law, the General Assembly has power at any time to remove the Executive Board or a Executive Board Member from office.

The General Assembly may prescribe in the By-Laws, that certain powers specified in relation to the Executive Board of the Amuta, shall be exercised by the General Assembly or with its approval.

Section 17 of the Amutot Law provides that “membership in an Amuta is personal, cannot be transferred and cannot be inherited”. The fair and proper way of voting at General Assemblies of Amutot is by a personal and direct vote. However, voting through a representative who is in possession of a power of attorney is not invalid, but care must be taken to ensure that it is a case of genuine representation that does indeed reflect the opinions of those being represented, and that the exercise of such a power of attorney is not being misused by parties that have accumulated in their possession a considerable number of powers of attorney, and who are able in such manner to substantively influence decisions. As a general rule, the Registrar’s requirement in this regard is that the power of attorney shall be specific for a particular meeting, and shall specify the position taken by the person who bequeathed the power of attorney in relation to the subjects on the Agenda.

In a case of an equality of votes at a General Assembly, the vote shall be decided in accordance with the provisions of the By-Laws. If the Model Form of By-Laws applies to the Amuta, under Section 10 of the By-Laws, the Chairman of the Assembly shall have a casting vote. If the Amuta has another form of By-Laws the vote shall be decided in accordance to the relevant provisions. When there are no provisions in relation to a particular matter in the By-Laws of the Amuta, the provisions of the Model By-Laws shall apply (see in the Chapter dealing with the By-Laws).

Executive Board

Section 25 of the Amutot Law provides that the Executive Board shall manage the affairs of the Amuta, and it shall have every power not reserved by this Law or in the By-Laws to another of the institutions of the Amuta.

Under Section 19(a) of the Amutot Law, an Amuta may prescribe in the By-Laws that it may have additional institutions. It follows from this that the Amuta may appoint

institutions that shall bear responsibility for various subjects, provided that it may not transfer to other institutions, the responsibility for the general management of the Amuta.

The first Executive Board of the Amuta is comprised of the founders of the Amuta. Thereafter, the General Assembly is the body that elects the Executive Board, unless a provision in the By-Laws states otherwise in relation to this matter. Section 26 of the Amutot Law provides that there may be a provision in the By-Laws whereby some or all of the members of the Executive Board shall be appointed by some other person or body, and also that a person holding a position defined in the By-Laws shall serve as a member of the Executive Board as long as he holds that defined position.

In any event, the General Assembly has the power to remove the Executive Board or a member of the Executive Board from office.

At least two members must serve on the Executive Board.

Under Section 33 of the Amutot Law, no person who provides services for remuneration to the Amuta otherwise than as a result of his position as a member of the Executive Board may serve as a member of the Executive Board of the Amuta. “Provision of Services” means, in addition to the prohibition of a member of the Executive Board being an employee of the Amuta, or providing it with a service as a contractor, also a prohibition on any additional contractual relationship of the Executive Board Member of the Amuta, as a result of which the Executive Board Member receives remuneration from the Amuta (such as – leasing of property to the Amuta, remittance of funds to a member of the Executive Board, including indirectly through another body with whom the Amuta is contracting). These rules also apply to an Executive Board Member, who is fulfilling a function or is supplying services to a subsidiary company controlled by the Amuta. In other words, it is prohibited to make any payment to a Member of the Executive Board through a subsidiary controlled by the Amuta. With regard to services for remuneration provided by a relative of an Executive Board Member see the Chapter entitled “Family Relationship and Conflict of Interests”.

Members of the Executive Board may receive attendance remuneration for their participation in meetings of the Executive Board and reimbursement of expenses as Executive Board Members in accordance with regulations that refer to this subject, but it should be noted that restrictions exist in this regard, as is set out in detail in the continuation of this manual in the Chapter entitled “The Use of Funds of the Amuta”.

Section 33 of the Amutot Law further provides that no person shall serve as a member of an Executive Board of an Amuta if he is not a member of the Amuta (unless he is a representative of a corporate body which is a member of the Amuta), or if he is a minor (a person aged under 18) or if he is a person that has been declared legally incompetent or bankrupt, or if he is a person who has been convicted of the offences specified in Section 33 or of other offenses that in the opinion of the Attorney General is one of moral turpitude. It is not possible to contract out of these provisions in the By-Laws.

Authority and Functions of the Executive Board

1. To implement the decisions of the General Assembly.
2. To determine the policy of the Amuta, subject to the Resolutions of the General Assembly, to prepare work programs of the Amuta, to determine the principles for financing the activities and the order of priorities between the various activity options.
3. To determine specific ways of action in order to implement the objectives of the Amuta.
4. To ensure that no distribution of profits shall be made, either directly or indirectly, to members of the Amuta.
5. To approve an Annual Budget, to monitor the financial situation of the Amuta, and to determine the credit framework that the Amuta may enter into.
6. To appoint and dismiss a General Manager.
7. To supervise the General Manager of the Amuta.
8. To determine the organizational structure of the Amuta and the salaries and payments policy.
9. To convene both Ordinary and Extraordinary Meetings.
10. To prepare the Financial Statements and Verbal Reports of the Amuta and to submit them to the Audit Committee or the Audit Body, and before the General Assembly for its approval.
11. To make a report to the General Assembly as to the state of the Amuta's affairs.
12. To prescribe written procedures governing the substantial routine activities of the Amuta.
13. To consider, decide, and act in relation to all the affairs of the Amuta, as it shall deem appropriate.
14. To maintain a Register of Members of Members of the General Assembly and Executive Board Members.

Responsibility of the Executive Board Members

The responsibility with which Executive Board Members are charged is “to act in the interests of the Amuta within the framework of its objectives, in accordance with its By-laws and the decisions of the General Assembly” (Section 27 of the Amutot Law).

In accordance with Court rulings, members of the Executive Board owe a duty of trust, care and proficiency to act in the best interests of the Amuta including the accomplishment of its objectives. They must take actions that serve the interests of the Amuta and not personal interests. Thus for example, in respect of matters pertaining to the obtaining of services for the Amuta, it is prohibited for a member of the Executive Board to take into account considerations of friendly relations with the service provider, and so forth.

Members of the Executive Board are responsible for ensuring that no distribution of profits is made by the Amuta, and in the event of such a distribution being made, they will be deemed to have committed a breach of their duty *vis a vis* the Amuta, unless they are able to prove that they did not know about it and were not under an obligation to know about it, or that they took all such steps as are reasonable with the aim of preventing such a distribution of profits.

Members of the Executive Board must perform their functions with caution so as not to harm the assets of the Amuta or its interests. For example, they must keep themselves updated as to the financial situation of the Amuta in order to prevent the creation of deficits that could endanger the economic strength of the Amuta. In extreme cases of gross negligence in actions taken by an Executive Board Member, or a breach of obligations of the Executive Board Member, for example, in a case of a prohibited distribution of profits as aforementioned, it is possible that the Executive Board Member will be charged by the Court with personally bearing some or all of the damage sustained by the Amuta.

An Executive Board Member must be proficient in matters concerning the affairs of the Amuta and possess the requisite skills for the purposes of such a function.

Indemnification and Insurance

The Amutot Law does not prescribe provisions permitting indemnification and insurance of Executive Board Members, and consequently a problematical situation arises *inter alia* in view of the prohibition on the distribution of profits. Nevertheless, in view of the fact that arrangements have been prescribed in Sections 258-264 of the Companies Law, including the exceptions set out in Section 345 (m) in relation to this matter in respect of Public Benefit Corporations, this does not preclude the insurance and indemnification of office holders in the Amuta (Executive Board Members, Audit Committee Members, the Audit Body, the CEO and all those directly under his authority), after approval by the General Assembly, and subject to appropriate provisions having been made in the By-

Laws of the Amuta, all this being in accordance with the same arrangements that apply to Public Benefit Corporations.

It is suggested that an Amuta wishing to make provisions governing this subject should contact its professional adviser for consultations.

The Executive Boards' Period of Tenure in Office

The Law does not prescribe the period of office of the Executive Board of the Amuta. One of the functions of the General Assembly is the election of Executive Board Members. Under Section 20 of the Law, the General Assembly must convene at least once annually.

In order to ensure the proper management of an Amuta, and that the Members of the Executive Board are acting in the best interests of the Amuta, as required by Section 27 of the Law, there can be no possibility of a situation arising of election of an Executive Board for an unlimited period. Accordingly, a procedure has been formulated whereby the Executive Boards' term of office will be limited to 4 years, apart from exceptional cases in which the nature of the Amuta justifies a term in office for a more prolonged period. In other words, elections to the Executive Board of the Amuta must take place at least once every 4 years (unless the Model By-Laws apply, or a shorter period has been prescribed in the By-Laws). Nevertheless, there is nothing to prevent the Amuta allowing the election of the same members for additional terms (unless this has been restricted in the By-Laws).

Authorized Signatories:

Under Section 18 of the Model By-Laws, the Executive Board must authorize two or more of its members to sign documents that bind the Amuta, on behalf of the Amuta. There is no obligation to include Section 18 of the Model By-Laws in the By-Laws of the Amuta, but the Registrar of Amutot requires, for the purposes of proper supervision and control over the expenditure of monies by the Amuta, and in accordance with the interpretation of the Law and the rules of proper management, that in every case there shall be at least two authorized signatories for the Amuta whose joint signatures will bind the Amuta in all matters pertaining to monetary actions, such as signature of checks, signature of contracts, execution of orders, taking loans, granting loans, acquisition of securities, purchase of foreign currency, investment of monies etc. In relation to the way in which the Amuta's funds are utilized, including the possibility of use of credit cards and other financial matters, see further details below.

It is not obligatory for the authorized signatories to be Executive Board Members, but they cannot be members of the Audit Committee. The authorized signatories will not have a first degree family relationship between them, in order to avoid situations of irregular conflicts of interests.

The authorized signatories must in any event be members of the Amuta or persons holding positions in it.

It should be noted that most of the reports that the Amuta has to submit to the Registrar of Amutot must be signed by two Executive Board Members. For a listed breakdown of such reports, see the Chapter entitled “Submission of Documents to the Registrar of Amutot”.

Audit Committee or Audit Body

The General Assembly must elect an Audit Committee or an Audit Body. An Audit Body can be an Auditor or such other body as shall be approved for such purpose by the Registrar of Amutot.

In a case in which the Amuta wishes to appoint an Auditor as an Audit Body instead of an Audit Committee, it does not need the Registrar’s approval. However the same Auditor that audited the Financial Statements of the Amuta or who did the bookkeeping must not be appointed, because of a conflict of interests between these functions.

In the case of an Audit Body who is not a Certified Public Accountant – if the Amuta wishes to appoint as an Audit Body a person who is not a Certified Public Accountant instead of an Audit Committee, it must first forward an application to the Registrar, attaching a CV and relevant experience of such body (for example – of him being duly qualified to be an internal auditor, an attorney, a tax consultant etc., depending on the auditing requirements of the Amuta), and after approval in principle by the Registrar, it must obtain approval of a General Assembly in order for the appointment to become effective.

It should be noted that in addition, an Amuta that is not active from a financial standpoint must appoint an Audit Committee because Section 19 of the Law provides that every Amuta shall have an Audit Committee. It may also be the case that the Amuta is engaged in a financial activity which, from its standpoint, is not regarded as a financial transaction, such as financing of rental by an external source. It may also be the case that the very fact that no financial activity is being carried on is a problem that should be examined by the Audit Committee.

Under the Internal Audit Law, a number of bodies exist, including single individual Amutot that are obliged to appoint an Internal Auditor. The function of an Internal Auditor is not identical to the functions of the Audit Committee or the Audit Body. The Internal Auditor is subject, pursuant to the Law, to the Executive Board while the Audit Committee or the Audit Body are subject to the General Assembly, and accordingly, the Internal Auditor cannot fulfill the function of an Audit Committee or of an Audit Body. Therefore, in cases in which the appointment of an Internal Auditor is necessary, his appointment will be in addition to the Audit Committee or the Audit Body, and not instead of them. It should be pointed out that the vast majority of the Amutot are not under an obligation with regard to the appointment of an Internal Auditor.

At least two members must serve on the Audit Committee, in accordance with the rules of proper management. An Audit Body may consist of one person, an Auditor or other body as approved by the Registrar.

According to Section 33 of the Amutot Law, a person who is providing services for the Amuta for remuneration, other than as a consequence of his function as a member of the Audit Committee, cannot serve as a member of an Audit Committee in an Amuta. “Provision of services” means, apart from the prohibition on a member of the Audit Committee being an employee of the Amuta, or is providing it with a service as a Contractor, also, a prohibition on any further contractual relationship of a member of the Audit Committee with the Amuta, as a result of which a member of the Audit Committee receives consideration from the Amuta (such as – leasing a property to the Amuta, remission of monies to a member of the Audit Committee, including indirectly, through another body with whom the Amuta is contracting). These rules also apply to a member of an Audit Committee who is fulfilling a function or is supplying services to a subsidiary company controlled by the Amuta. In other words, it is prohibited to make any payment to a member of an Audit Committee through a subsidiary controlled by the Amuta. With regard to services for remuneration provided by a relation of a member of an Audit Committee, see the Chapter entitled “Family Relationship and Conflict of Interests”.

Audit Committee Members may receive an attendance fee for participation in meetings of the Audit Committee and reimbursement of expenses as Audit Committee Members, pursuant to the Regulations that have been made in this matter,² provided that restrictions exist in this regard, all as are set out in detail subsequently in the Chapter entitled “Use of the Funds and Assets of the Amuta”. These Regulations do not apply to an Audit Body and therefore the remuneration of the Audit Body will be fixed by the General Assembly in accordance with what is usually accepted in professional terms.

Section 33 provides further that no person shall serve as a member of the Audit Committee in the Amuta who is not a member of the Amuta (unless he is a representative of a body corporate that is a member of the Amuta), or who is a minor (a person under the age of 18) or a person who has been declared legally incompetent or bankrupt, as well as a person who has been convicted of the offences detailed in the Section, or of another offence which in the opinion of the Attorney General is one of moral turpitude.

Powers and Functions of the Audit Committee/Audit Body

1. In accordance with Section 30 of the Amutot Law, the Audit Committee has a substantive function in examining the financial and economic affairs of the Amuta, as well as examining the propriety of the Amuta and its institutions, and the Audit Committee must *inter alia*:

² The Amutot (Nonprofit Societies) Regulations (Remuneration of Executive Board Chairman, Executive Board Member and Audit Committee Member in an Amuta), 5769-2009, published in Subsidiary Legislation 5769-2009

- Examine the propriety of actions of the Amuta and its institutions, including the compatibility of the Amuta's actions with its objectives. Included in this, the Audit Committee is required to examine the propriety of actions taken by officeholders in the Amuta and to examine the proper management of the Amuta, with economy, efficiency, effectiveness, and its integrity.
- Examine attainment of the aims of the Amuta effectively and with economy.
- Monitor implementation of decisions of the General Assembly and of the Executive Board.
- Propose to the Executive Board ways of rectifying shortcomings in the management of the Amuta.
- Examine the financial affairs of the Amuta, its account books and its payments of salaries, including the assignment of the Amuta's funds for the promotion of its objectives.
- Examine any other matter connected with the activity of the Amuta.

With the aim of implementing its functions:

- (a) The Audit Committee will conduct a general examination, once annually, as detailed above, and will also monitor the implementation of recommendations made previously. Paying due regard to the extent of the Amuta's activity, the Audit Committee will focus once annually on one or several of the topics, of those mentioned above, and in the framework thereof will carry out a more than usual in-depth examination.
 - (b) The Audit Committee shall consider the verbal report and the financial statement and shall submit its recommendations to the Executive Board, and to the General Assembly. It should be mentioned that as part of the annual reports, the said recommendations must be submitted to the Registrar by the Amuta.
2. The Audit Committee is required to prepare an Audit Report at least once annually. The Audit Report shall also include, apart from the findings of the Committee, recommendations and a reference to the rectification of shortcomings revealed in the past, depending on the circumstances. The obligation of submitting a report once annually is implied from Section 30 of the Law, which provides that the Audit Committee shall lay its recommendations before the Executive Board and the General Assembly.
 3. Under Section 20(b) of the Law, the Audit Committee or the Audit Body may require in writing that the Executive Board convene an Extraordinary General Assembly, and in the event of the Executive Board not proceeding in accordance with such a request within 21 days from the date on which it was submitted, the Audit Committee may convene the General Assembly, provided that the meeting shall be held within a maximum of three months from the date of the submission of such request.

4. The Audit Committee or the Audit Body may ask the Registrar of Amutot to appoint an Investigator who shall investigate the manner in which the Amuta is managed, its performance under the provisions of this Law and its financial activities in accordance with Section 40(a) of the Law.

With the aim of performing their functions, Members of the Audit Committee/Audit Body may at any time scrutinize the account books of the Amuta and the documents that relate to the entries in them and make photocopies of them, and obtain from any Executive Board Member and from every Amuta employee any document in their possession and all the information which, in their opinion, they need for the performance of their functions (Section 35(b) of the Law).

Auditor

As of 2009, an Amuta whose financial turnover for 2008 exceeded the sum of NIS 1,146,952 (the amount is updated annually), must appoint an Auditor to audit its financial statements, and to submit an Auditor's Report.

It is the General Meeting that must appoint the Auditor and fix his remuneration.

The Auditor must participate in any General Assembly that considers the financial statements that he has audited, in order to provide any notification or explanation that is necessary and pertaining to such financial statements.

In a case in which the Amuta has not appointed an Auditor as required, the Registrar may, at the request of one of the Members of the Amuta, appoint an Auditor for the Amuta for that year and fix the remuneration that the Amuta is to pay him for his services.

The Auditor of the Amuta, and Executive Board Members and Members of the Audit Committee, may also inspect such documents as are necessary for them to scrutinize, in their opinion, with a view to performing their function, and to photocopy them.

It should be emphasized that it is not possible to appoint the same Auditor who audited the Amuta's Financial Statements, as an Audit Body instead of the Audit Committee, so as not to create a conflict of interests between the two functions.

In accordance with the Auditor's Regulations,³ as a general rule, the Auditor who is carrying out the audit of the Financial Statement, may not do the Amuta's book-keeping, provided that if the financial turnover of the Amuta is up to NIS 5 million, a person and also another partner from the same accountancy firm who is not part of the auditing team that audited the Financial Statement, may do the book-keeping. In Amutot whose financial turnover for the year exceeds NIS 5 million, as a general rule, neither shall the book-keeping be done by others in the same accountancy firm.

³ Auditors' Regulations (Conflict of Interests and Infringement of Independence as a result of other Occupations), 5768-2008, published in Subsidiary Legislation page 608.

Right of Scrutiny of the Amuta's Documents

Under Section 39 of the Law, the Register of Members of the Amuta (in other words, Members of the General Assembly) and Register of Executive Board Members, the Minutes of the General Assembly and the Financial Statements and Verbal Reports approved by the Amuta, shall be open at any reasonable time for inspection of all Members of the Amuta.

The right of scrutiny of the Register of Members also implies the right to make a copy of the information in the usually accepted manner if the scrutinizer so requires, such as photocopying the material.

In addition to the foregoing, Members of the Audit Committee and Members of the Audit Body have a right to scrutinize any document in the possession of the Amuta or to receive information from the Members of the Amuta or its employees, if such information is necessary, in their opinion, for the performance of their functions.

The foregoing matters apply even more intensely with regard to Executive Board Members in the context of their responsibility under Section 27 of the Law, to act in the best interests of the Amuta, within the framework of its objectives, and in accordance with the By-Laws and decisions of the General Assembly.

It should be noted that the public at large has a right to scrutinize all such documents as the Amuta is obligated to submit to the Registrar under the Law, at the offices of the Registrar of Amutot subject to payment of a fee, and this is in addition to the option of viewing some of the information via the internet. As regards documents that the Amuta must submit to the Registrar of Amutot, see the Chapter entitled "Submission of Documents to the Registrar of Amutot".

NAME, OBJECTIVES AND BY-LAWS OF THE AMUTA

Use of the name of the Amuta

As provided in Section 8A of the Amutot Law, an Amuta must use its full name as it appears in its' Certificate of Registration, without any omissions or additions. The name of the Amuta must appear on every document, sign or other publication issued on its behalf in accordance with this requirement. It is prohibited for an Amuta to use alternative names in the promotion of various projects.

At the end of the name of the Amuta, the following abbreviation “(R.A.)” or the word “Amuta” or “Registered Amuta” must be added.

An Amuta may include its name without indicating “R.A.” in its logo, and may design the logo as it wishes as long as it is not misleading in any way and provided that the full name of the Amuta, pursuant to the provisions of Section 8A of the Law, shall be stated in every document of the Amuta, irrespective of what is stated in the logo. In the case in point, it must be verified that on the letter heading of the Amuta the full name of the Amuta appears clearly and prominently on the document, thus for example a situation must be avoided in which the name of the Amuta is small and marginal in format in relation to the logo.

Objectives of the Amuta

One of the main topics checked in relation to the propriety of the Amuta’s activity, is the fulfillment of its registered objectives. The registered objectives are those that have been recorded by the Registrar in the context of the application for registration of the Amuta, or objectives that have been recorded by the Registrar at a later stage, at the request of the Amuta, when as detailed below, in a case of objectives that are different from the registered objectives of the Amuta prior to the change, the approval of the Court will also be necessary, prior to registration by the Registrar,.

It should be emphasized that in relation to a change of objectives, submission of Minutes to the Registrar is insufficient and that registration of the change, subject to the provisions set out below with regard to approval of the change of objectives, is a condition for the change coming into effect.

An Amuta may not undertake any activity that is not part of its official objectives even if they are important actions that are of assistance to the public or to the needy.

An Amuta must promote all its registered objectives, and revoke objectives that it does not intend to promote. If an Amuta has registered objectives that have not been advanced for an unreasonable period of time, the Amuta is under a duty to revoke them or to present a practical program for their advancement.

An Amuta that wishes to add to, delete or change objectives that closely resemble its existing objectives, may, under Section 11(a) of the Amutot Law, convene a General Assembly and adopt a resolution to that effect and thereafter submit the resolution for examination by the Registrar of Amutot. The new objectives shall not come into force and it shall not be possible to proceed in accordance with them until after their registration by the Registrar. In the event of the objectives that the Amuta wishes to delete, change or add to, not closely resembling the existing objectives of the Amuta, the Amuta must apply to the Court in order to obtain its approval of the requested action. In any event, a change of the objectives will not be valid prior to their registration by the Registrar.

Prior to adoption of a resolution as to a change of objectives, the Executive Board shall be duty bound to lay before the General Assembly, a detailed list of the assets that the Amuta has accumulated in reference to the existing objectives and of the obligations for which the Amuta has accepted responsibility in this regard, including *vis a vis* donors to the Amuta. Compliance with the foregoing conditions is essential in order to ensure that a resolution of such significance in the life of the Amuta is not adopted perfunctorily other than after the Amuta has properly accepted its implications and further that it shall ensure that the interests of the donors to the Amuta are not adversely affected as a consequence of the change. In relation to commitment *vis a vis* donors whose funds are to serve a particular objective, and including the implications of a change of objectives of such a case – see below in the Chapter entitled “Management of the Amuta’s assets for the promotion of its objectives”.

Under Section 1 of the Law the **principal** objective of an Amuta cannot be aimed at making profits. Accordingly, the principal activity of an Amuta cannot be expressed in the holding of shares in a commercial company even if in such a case the company is wholly owned by the Amuta and all its profits are distributed to the Amuta.

Nevertheless, an Amuta may hold shares in a commercial company alone or together with other nonprofit organizations and provided that such activity is not its principal activity and the profits of such activity serve the principal objectives of the Amuta. In relation to the holding of shares in a commercial company together with a private company, see the next topic.

Use of the Amuta’s Assets for Promotion of its Objectives

The Amuta must utilize its resources for the promotion of its objectives. This means that, the Amuta’s funds, its assets, its goodwill, equipment etc. must be fully utilized with a view to promoting the Amuta’s objectives.

Designated funds

If the Amuta has received funds, whether as donations or as support for the promotion of a particular objective, it must use such funds for the objective for which they were provided and for no other, even if such other objectives are part of the objectives of the Amuta. Furthermore, if a representation was made to the donors that the Amuta’s funds

will be used for a particular purpose, the funds must be put to that use, and must not be accumulated or transferred for other uses (even if these are part of the objectives). It should be noted that the Amuta must give adequate expression in the Financial Statements, in accordance with accounting principles, to assets in respect of which restrictions have been placed on the use thereof, whether by the donor, or by one of the Amuta's Institutions that has power to do so. Additionally, in the context of the adoption of a resolution by the General Assembly as to a change of objectives or alteration of provisions in the By-Laws in respect of the designation of funds in the event of liquidation, the Executive Board must lay before the General Assembly details of the commitments that have been made to donors to the Amuta concerning such specially designated funds. A change in the objectives or in the By-Laws will only come into force following registration by the Registrar, and subject to approval of the Court should this be necessary, as detailed in the previous Chapter. The Amuta must also state what commitments have been made to it *vis a vis* the donors, for the purposes of approval or registration of the objectives, as the case may be. Even where a change of objectives is approved it is possible that the Amuta will be required to give a binding commitment to continue using the funds that were accumulated previously for the purposes for which they were provided.

No Activity

An inactive Amuta cannot obtain a certificate of proper management, and the Registrar shall duly consider taking other action, such as liquidation.

Accumulation of Assets

An Amuta that unreasonably accumulates assets or capital for a prolonged period without investing in the promotion of firmly based objectives, or has no up to date practical and efficient program for the use of such funds with the aim of promoting the objectives, will not be entitled to receive a certificate of proper management. The prohibition on the unreasonable accumulation of surpluses stems *inter alia* from the aim of the Amuta to proceed with the promotion of its objectives, and from the basic assumption that donors or other bodies have transferred funds to the Amuta with the aim of directly promoting its objectives within a reasonable time. In certain cases the nature of the Amuta or the nature of the assets enables most of the assets in the Amuta to be safeguarded, by the use of a small proportion of them for promotion of the objectives, such as funds provided to the Amuta on condition that they be used as capital, the profits of which are to be distributed to beneficiaries in accordance with the objectives of the Amuta. In cases such as these, the holding of funds for a long term isn't improper, although it will be up to the Amuta to examine as to whether or not an endowment might have been incidentally created of which the Amuta is the trustee. In a case in which an endowment has indeed been created, the Amuta must register the endowment with the Register of Endowments, and proceed with the delivery of reports in accordance with the principles set out in the Trust Law.

It should be clarified that an Amuta may accumulate a reasonable sum with regard to its ongoing activities, such as for the purpose of coping in periods of economic difficulties.

Paralysis in the Functioning of an Amuta

An Amuta that is not proceeding with the promotion of its objectives due to internal disputes and power struggles between the members of the Amuta, or for any other reason, cannot obtain a certificate of proper management, unless it demonstrates a willingness to take steps which will enable it to function.

Related Corporate Bodies

An Amuta may establish a Company⁴ with the aim of promoting its objectives, such as:

- To carry out a business transaction the profits of which are to be remitted to the Amuta (for example a Synagogue forming a company that will operate a celebratory events hall, whereas the purpose of the operation of such a company is the receipt of revenues for the purposes of the Amuta's activity).
- To engage in activities of an appropriate nature in a company context rather than that of an Amuta (for example in the case of an Amuta whose objective is the distribution of food to the poor, establishing a company that will operate special supermarkets).

In such cases meticulous care must be taken to ensure that the company's profits only serve the purposes of the Amuta, and are not distributed to other parties (including the company's employees by means of increased salaries etc.) and that the holding of shares in the company does not constitute the main objective or activity of the Amuta, even if the company's profits are remitted to the Amuta. The same rules pertaining to prohibiting the employment of Executive Board Members or Audit Committee Members in the Amuta, and the receipt of services for remuneration from such officials, shall also apply to their employment by the company. As a general rule, it is desirable that the Amuta itself, or in conjunction with other non-profit bodies, should hold 100% of the company's shares. In exceptional cases this rule may be exceeded where there is special justification for this. The Registrar of Amutot shall examine the question of whether there is no concern as to the distribution of profits to a private source or of the Amuta being exploited for the benefit of private sources. In addition the question will be examined as to whether the Amuta has taken lawful and legal steps to safeguard its rights including by way of preserving control of the company, firmly basing its rights in the articles of association of the company, reserving the right of veto to the Amuta in substantive matters such as salaries for employees, sale of assets etc., preparation of a written agreement between the Amuta and the Company etc. In view of the complexity of the subject it is suggested that the Amuta contact the Register of Amutot in advance for consultation so as not to be found, after the event, in breach of the rules. In any event a prohibition applies on an official in an Amuta or anyone on his behalf personally holding shares of a subsidiary company. An action of this nature is likely to be considered to be a

⁴ In this regard meaning a company or any other commercial corporate body

prohibited transfer of assets. Moreover, in the case of a member of an Amuta, this will be considered a distribution of profits, with all the applying meanings, and in the case of an Executive Board Member or Audit Committee Member, it may be considered in certain circumstances to be a circumvention of the provisions of Section 33 (a) (2) of the Amutot Law and the remuneration regulations.

Acting in accordance with the By-Laws of the Amuta

The Amuta must act in accordance with its By-Laws. This obligation stems both from Section 27 of the Law which provides that the Executive Board Members must act in accordance with the By-Laws of the Amuta, and from Section 9 of the Law which provides that the effect of the By-Laws shall be that of a contract between the Amuta and its members, and between the members themselves.

Section 12 (b) of the Law provides that if a matter is governed by the Model By-Laws, but is not governed by the By-Laws of the Amuta, or is partly or defectively governed in them (in a manner that conflicts with the provisions of the Law), then the provisions of the Model By-Laws shall apply to that particular matter.

It should be pointed out that it is not sufficient that all the members of the Amuta have agreed to a particular matter being governed in a certain way, but that it must be examined as to whether the matter concerned is compatible with the By-Laws of the Amuta. The Amuta must comply with the requirements of its By-Laws even if this is inconvenient and even where there is an overwhelming majority against such requirements. Thus for example, an Amuta that has adopted the Model By-Laws may not appoint authorized signatories who are not members of the Executive Board of the Amuta; because Section 18 of the Model By-Laws provides that the authorized signatories shall be members of the Executive Board. Additionally, if it has been prescribed in the By-Laws that every several years, elections shall be held to the Executive Board of the Amuta, then members of the Amuta may not waive the holding of elections.

If the Amuta wishes to change a section of the By-Laws it must adopt a resolution as to such a change, in the General Assembly, and thereafter forward the resolution for scrutiny by the Registrar of Amutot. The change will only take effect after it has been registered by the Registrar of Amutot. Meticulous care must also be taken to ensure that the resolution is adopted in accordance with the By-Laws if a restriction applies with regard to the requisite majority, right of veto etc.

As part of an examination of the format of the By-Laws by the Registrar of Amutot, its compatibility with the requirements of the law will be examined, including the interpretation of such requirements by the Registrar. If in the context of such examination the need arises to amend provisions of the By-Laws, where such an amendment arises due to the Law having unequivocally prescribed another arrangement, the Amuta will not be required to reconvene the General Assembly in order to approve such version. In such a case it will be possible to register the amendment, without further approval of the

General Assembly, if two members of the Executive Board have signed the amended version. If it is a case of a substantive matter, in respect of which a wide discretion is vested in the General Assembly, it will be necessary to resubmit the matter for its approval before registration of the new version by the Registrar.

It is recommended that the Amuta should retain possession of a complete and up to date version of the By-Laws containing all the changes made in it up to that moment in time.

Existence of Written Procedures

An Amuta that engages in substantial activity in a particular field must ensure that professional and detailed written procedures are in place governing the aforementioned activity. Thus for example, an Amuta that employs workers and is engaged in substantial activity will be expected to set a procedure for acceptance of employees for employment in the Amuta, a procedure for contracting with suppliers, a procedure dealing with the attendance of employees at work, a petty cash procedure and additional procedures that ensure that activity takes place in the Amuta on a proper and continuous footing. The scope of the procedures and the level of detail set out in them shall be correlated to the scope of the Amuta's activities.

SUBMISSION OF DOCUMENTS TO THE REGISTRAR OF AMUTOT

The Statutory Requirements

Section 38 of the Amutot Law prescribes which documents must be submitted by every Amuta to the Registrar of Amutot. The original documents must be submitted duly signed by two Committee Members indicating the names of the signatories. Alternatively, a copy of the duly signed documents can be submitted, having been stamped as “a true copy of the original” by an Attorney or a Certified Public Accountant.

As a result of the enactment of the Amutot (Forms) Regulations, 5769-2009, as from July 25, 2009 an obligation applies to submit reports to the Registrar of Amutot on the forms as prescribed in the Regulations. Commencing from December 25, 2009, there is an obligation to complete these forms by means of the online forms as they appear on the Registrar of Amutot website, and to submit a signed downloaded version to the Registrar as aforementioned.

The documents to be submitted to the Registrar by the Amuta include the following:

1. Notice of change of address of the Amuta.
2. Notice of appointment of an Executive Board Member, Audit Committee Member or Audit Body, or of the expiration of their term of office, as well as the appointment of an Auditor or the expiration of his term of office.
3. Minutes of the General Assembly containing a resolution to change the By-Laws of the Amuta, or its name or its objectives.
4. Resolution of the General Assembly or of the Executive Board as to those with authority to sign on behalf of the Amuta.
5. Notice of any suit brought against the Amuta or against a member of the Executive Board by virtue of his position as an Executive Board Member. The names of the parties, the Court before whom the suit was brought, the grounds and number of the proceeding shall be stated in the notice.
6. The Financial Statements of the Amuta, including: listed details of the five recipients of the highest salary in the Amuta, a report as to donations, and a report as to donations from an entity of a foreign country pursuant to section 36A of the Law. The manner in which the Financial Statements are to be prepared will be detailed subsequently.
7. The Verbal Report of the Amuta.
8. Minutes of the resolution of the General Assembly to approve the Financial Statements and the Verbal Report together with the Financial Statements and together

with a recommendation of the Audit Committee or the Audit Body concerning the Financial Statements and the Verbal Report, and if an Auditor has been appointed, then his opinion shall be attached to the Financial Statement.

9. Minutes of a resolution of a General Assembly to wind up voluntarily and appointment of a liquidator.

Under Section 38A of the Law, the Registrar of Amutot may demand any additional document or information with a view to the clarification of details stated, or which should have been stated in the Financial Statements or in the Verbal Statement, or for the purpose of clarifications as to the lawful conduct of the affairs of the Amuta.

The documents being submitted to the Registrar must be either in Hebrew or in Arabic. Documents must not be submitted in English (unless a complete Hebrew translation signed by two Executive Board Members is attached to them, which will constitute a binding version. An unsigned Hebrew translation will not be sufficient even if it is certified by a Notary).

Submission of Documents for the purposes of obtaining a Certificate of Proper Management

Regular compliance with the statutory annual reporting obligations is a precondition for obtaining a Certificate of Proper Management from the Register of Amutot.

Only on the expiration of two years of continuous proven activity, submission of the requisite documents in accordance with the Law as well as compliance with all the rules of proper management, will a Certificate of Proper Management be issued to the Amuta.

An Amuta that requests a Certificate of Proper Management after having not fulfilled its reporting obligations for several years as required, will be required to submit all the necessary documents that the Amuta was obligated by law to submit during the last 7 years, prior to the year in which the Amuta applied for a Certificate.

It should be clarified that the Registrar of Amutot does not issue retroactive certificates of proper management in respect of previous years.

An Amuta that has not properly discharged its reporting obligations for a lengthy period of time will be required to complete the necessary material and forward, with a view to the issue of a certificate, the latest financial statement required for the issue of a certificate and the accompanying documents, and in addition financial statements and documents as aforesaid for the previous 3 years. For example, an Amuta requesting a certificate for 2010 will be required to submit a financial statement and additional documents for 2008, as well as financial statements and documents relating to the years 2005-2007. The Amuta must furnish any other document that may be required by the Registrar for the purposes of clarification.

If the Amuta does not furnish the documents required by the Registrar of Amutot, the Registrar may refuse to issue a certificate of proper management to the Amuta and may also take, and impose more severe actions and sanctions against the Amuta including the appointment of an Investigator and submission of an application to wind up the Amuta.

Annual Fee

Every Amuta is required to pay an annual fee, commencing from the year following its registration, unless it falls within the exemption prescribed in the regulations.

An Amuta will be entitled to exemption from the annual fee if two members of the Executive Board of the Amuta have made a declaration before an Attorney, in respect of each year separately, that the following aggregate conditions have been satisfied in relation to it:

1. The annual turnover does not exceed NIS 300,000.
2. It is not paying remuneration and making payments (for work, whether in respect of an employee or a sub-contractor) with the exception of remuneration payable to a member of a profession for the purposes of implementing provisions of the law, such as payment to an Audit Body.

Every Amuta must pay the annual fee in the Postal Bank or via the Internet and alternatively furnish the Postal Bank with an Affidavit Form (included in the forms sent to the Amuta annually) duly signed.

A Certificate of Proper Management will not be issued to an Amuta that has not paid a fee or has not submitted an Affidavit for exemption to the Postal Bank, as the case may be.

Non-payment of fee is liable to lead to the imposition of additional sanctions against the Amuta.

THE ACCOUNTING SYSTEM AND PREPARATION OF THE FINANCIAL STATEMENTS AND VERBAL REPORTS

Section 35 of the Law provides that an Amuta must keep account-books which shall fully and faithfully reflect its transactions and financial position. The Amuta must take care to ensure that its financial transactions are recorded in accordance with the Income Tax bookkeeping procedures.

General Principles in relation to Financial Management

1. The accounting system will be maintained by the Amuta itself or a party on its behalf. The bookkeeping must be autonomous and separate from that of other corporations.
2. In the bookkeeping records every financial transaction carried out by the Amuta must be recorded. The bookkeeping records must be based on proper documentation and such documentation must be kept in a well ordered manner. Care must be taken to procure the written signature of agreements in respect of all financial obligations of the Amuta, including loan agreements and written documentation of withdrawal and receipt of moneys. The Amuta must keep invoices and receipts as well as every agreement and every document forming the basis for the financial transactions entered into.
3. The Amuta must ensure that a person is appointed who shall be charged with responsibility for recording the financial transactions and for keeping the bookkeeping system permanently up to date.
4. Withdrawal of moneys from the Amuta will only be carried out by those with authority to bind the Amuta by their signatures, supported by proper documentation.

Keeping Records in accordance with the Second Schedule to the Law

Under Section 35 of the Law, the Amuta's books must include at least the items contained in the Second Schedule to the Law.

The Second Schedule to the Law details various categories of items that the Amuta must include in its accounting system.

These categories include *inter alia*, the keeping of a book in which there shall be a recording of assets received as donations and as gifts, as well as a detailed breakdown in a receipt book of allocations that the Amuta has received from others, including governmental or municipal bodies.

Under the Second Schedule an Amuta that has an annual turnover that exceeds NIS 750,000 must keep account books by the double entry bookkeeping method.

Preparation of the Financial Statements

Section 36(a) of the Law imposes responsibility on the Executive Board for the preparation of the Financial Statements. The said statements should include at the very least, a balance sheet and an account of the income and expenditure of the Amuta. These documents must properly express the data contained in the accounting system of the Amuta. Assignment of the task of preparation of the report to another party on behalf of the Amuta does absolve the Executive Board from its responsibility for the propriety of the report and its compliance with the Law's requirements. It should be emphasized that every Amuta must submit financial statements irrespective of the size of its financial turnover.

Under Section 36(b) of the Law the Amuta shall attach to the Financial Statement a full and accurate detailed breakdown of all the payments made by the Amuta or which it has undertaken to pay during the year in respect of which the Financial Statement is being submitted, including other payments and undertakings to pay, and including loans, amounts of money and any other valuable consideration (including securities), retirement conditions, and any other benefit (a detailed explanatory and quantitative breakdown) **in respect of each of the five highest salary earners in the Amuta**. Such a breakdown shall be submitted on a Form prescribed under the provisions of the Forms Regulations.

As part of the report as to the five highest salary earners, the Amuta must also submit a report about persons that it employs to perform actual work, even if they are not salaried employees, such as a person serving as Acting CEO in the Amuta but is receiving payment as a contractor.

As to the obligations of detailing contributions from a foreign state entity in the Financial Statement, see the chapter entitled "Donations from a Foreign State Entity".

In the Financial Statement being submitted to the Registrar, a distinction must be made between expenses in respect of activity and expenses attributed to general & administrative. Listed details must also be given of the persons who have donated to the Amuta a sum in excess of NIS 20,000 per annum unless special permission has been given by the Registrar of Amutot as to non-publication of the name (in respect of expenses that must be detailed as "Administrative and General" expenses, and as to rules that apply as to the detailing of the names of donors see the Chapter entitled "The Use of the Amuta's Funds and its Assets").

Accounting Opinion Number 69 and Standard 5

Section 36(c) of the Law provides that "The Financial Statement shall be prepared according to accepted bookkeeping and reporting rules...".

In the context of this obligation the report must be prepared in accordance with such standards as are prescribed by the Israeli Institute for Proper Accounting, and the opinions of the Institute of Certified Public Accountants. Commencing from the Financial

Statement for 1999 an obligation exists to prepare the report in accordance with Opinion 69 and Standard 5 (Standard 5 contains amendments and clarifications to Opinion 69).

In accordance with Opinion 69 and other opinions, the Financial Statement of a non-profit organization must include the following components:

1. Balance Sheet – is to be prepared in such a manner that all the assets and liabilities will be classified according to their nature and will be shown according to their liquidity level. The net assets (the difference between the assets and liabilities) will be presented under one item heading, with a distinction being made in the framework of the Balance Sheet between:
 - (a) Net assets in respect of which there is no restriction on their use for activities/net assets in respect of which there is no restriction & which were used for fixed assets.
 - (b) Net assets in respect of which a temporary restriction exists.
 - (c) Net assets in respect of which a restriction of a permanent nature exists (resources transferred to the Amuta for specific objectives only, such as donations made on condition that they are used for a particular purpose).
2. Activity Report – this report shall include all the income and expenditure during the period of the report. This report shall also include amounts released from groups of net assets in respect of which there were restrictions on activity and which were transferred to a group of assets in respect of which no such restriction exists, as a result of the fulfilling of or cancellation of conditions that were imposed on the use of such assets.
3. Report on Changes in Net Assets – this report shall be prepared in a manner that reflects all the changes during the accounting period in respect of all groups of the net assets, including a surplus of the income over the expenditure in the accounting period. The purpose of this report is to provide a comprehensive picture as to the status of the various assets and the classes thereof.
4. Cash Flow Report – The report shall reflect all the cash flow in so far this is obligatory under Opinion No. 51 and pursuant to what is stated therein.
5. Notes to the Financial Statements – Notes must be recorded in accordance with the Opinions of the Institute of Certified Public Accountants and the Standards of the Proper Accounting Standards Institute. In the context of such notes, reference must be made *inter alia*, to the objectives of the Amuta, details concerning related parties, the Amuta's dependence on other bodies and in particular on Government Ministries, details concerning loans that the Amuta has made or received as well as a detailed breakdown of the fixed assets.

The Auditor of the Financial Statement shall proceed in accordance with what is prescribed by law and the accepted accounting standards.

Consolidated Financial Statements

When an Amuta controls subsidiary corporations it must submit consolidated financial statements to the Registrar showing it and such subsidiary corporations as one economic unit pursuant to Opinion 57 of the Institute of Certified Public Accountants.

The Verbal Report

Under Section 37(a) of the Law, the Amuta must submit the Financial Statement together with the Verbal Report. The function of the Verbal Report is to outline in a concise and clear manner the activity of the Amuta and the organizational structure in the year to which the report relates.

The details of the Verbal Report shall be completed in accordance with the Third Schedule to the Law. The responsibility for preparation of the report lies with the Executive Board and when the report is submitted it must bear the original signatures of two of its members. One of the functions of the Audit Committee is to examine the Verbal Report and submit its recommendations to the General Assembly.

Submission of the Verbal Report is one of the preconditions for the issue of a Certificate of Proper Management.

Submission of the Verbal Report including all its various details is not a substitute for the Amuta's obligation of due reporting on the Forms prescribed for such purpose, at the date of adoption of the various resolutions, such as: reporting as to the appointment of Executive Board Members etc.

The Verbal Report will be open to public scrutiny.

In the Third Schedule the categories that should be included in the Verbal Report are set out in detail and include *inter alia*: a report on the actions that the Amuta has taken to promote its objectives, a detailed breakdown of the organizational structure of the Amuta including the institutions of the Amuta and its officeholders, a report concerning corporations whose officeholders are also officeholders in a Amuta as well as corporations linked to the Amuta, a detailed breakdown of the principal uses that the Amuta has made of donated funds during the year of the report, the scope of the principal services provided to the Amuta, a detailed breakdown of transactions in real estate transacted by the Amuta, or transactions with related parties, exceptional events, shortcomings and any other material matter that has occurred in the reporting year.

A recommended Form for completing the Verbal Report and instructions for completing the Form can be found on the website of the Registrar of Amutot.

THE USE OF THE FUNDS AND ASSETS OF THE AMUTA

Opening Bank Accounts

An Amuta must open a bank account in its name only, and its moneys shall be deposited in such account, and not in the accounts of other parties such as Executive Board members.

When an Amuta is operating various projects of substantial scope, it is recommended that a separate account be opened for each project.

Furthermore, when using a credit card in accordance with the rules of proper management, in certain cases the Amuta will be required to open a specially designated account in respect of a particular credit card.

Use of Cash and Checks

In principle, making payments in cash adversely affects the possibility of exercising minimum control over expenditure of the Amuta's funds. The Registrar has therefore decided, as part of the criteria for the issue of a Certificate of Proper Management, that a certificate will not be issued to an Amuta that pays expenses in cash (except for such expenses as can be paid in the context of "petty cash"), and neither will such a certificate be issued to an Amuta that pays stipends in cash.

The Amuta's checks shall be signed by two authorized signatories on its behalf, appointed by the General Assembly or the Executive Board of the Amuta, all in accordance with the provisions of the By-Laws. The Amuta must be strict in ensuring that checks are not signed in advance without stating the amount and the payee.

For reasons of proper control, the Amuta must strictly ensure that all the checks that it writes shall be marked "To Payee Only", with the exception of a check the purpose of which is a withdrawal in cash from the Bank for petty cash.

Transfers of Moneys from the Bank Account

Transfers of moneys from the Amuta's Bank Account to another account, whether that of the Amuta or of an outside party, shall only be made by fax (and not by telephone) signed by the authorized signatories.

Use of Credit Cards

Use of credit cards by an Amuta constitutes a problem because it does not enable the signature of two authorized signatories as is required, and it therefore adversely affects control over the way in which the Amuta's funds are handled. There are however, cases in which the use of credit cards is necessary, such as when there is no other way of making the required purchase, or instead of use of cash in a petty cash framework.

The use of credit cards will be possible subject to fulfilling of the following conditions:

1. The Amuta uses a credit card that is limited to the amount permitted for use as petty cash, and uses it solely for permitted petty cash expenditure. It should be clarified that reference in this regard is to a special type of credit card, which contains a restriction on the amount of a one-time item of expenditure (such as charged card) or a monthly limit of expenditure (such as a card with a credit facility limit of a small amount). A decision as to the issue of such a card will be signed by two authorized signatories.
2. A credit card, as to which the payment thereof is subject to the existence of a monetary balance in a designated account opened for the purpose of use of such a card. The use of a card of this type will be subject to transfer of funds to the designated account following a signed instruction by two authorized signatories of the Amuta, for the purpose of a particular item of expenditure, noting the purpose of the transfer. The Amuta shall strictly ensure that there shall be no balances in this account apart from the moneys transferred to it for such particular item of expenditure. Use of a card as aforesaid shall occur in cases in which there is a difficulty in making the payment in another way, for example in order to make payments that can only be made through the internet, payment of a fee to the Registrar, expenses incurred during travel abroad etc.

In so far as there are additional categories of credit cards, the characteristics of which are consistent with exercising proper control over financial expenditure, the Registrar of Amutot will consider the possibility of permitting the use of such cards.

Administrative and General Expenses.

An Amuta is not permitted to pay a salary to Executive Board Members and Audit Committee Members other than attendance remuneration and reimbursement of expenses only, as detailed in the regulations⁵ that will be in effect from February 23, 2010 and in respect of the performance of these functions only. Also in respect of its employees, the Amuta may not pay a salary that exceeds what is reasonable, giving regard to the qualifications of the employee and what is usually accepted in the labor market with respect to similar positions. In the case of a salary for an employee who is a member of the Amuta, the payment of a salary beyond that which is reasonable will be deemed a prohibited distribution of profits, for which the Executive Board Member is likely to be held personally liable as a result of a breach of the duties that he owes to the Amuta under Section 34D of the Law, unless he has objected to such prohibited distribution and has taken all such steps as are reasonable in order to prevent it, or, that in the circumstances of the case he did not know of and it was not incumbent upon him to know of such a prohibited distribution. As to payment of an unreasonable fee to other suppliers who are not employees of the Amuta, this is an action not in the interests of the Amuta and the

⁵ The Amutot Regulations (Remuneration of Chairman of Executive Board, Executive Board Member and Audit Committee Member of an Amuta), 5769-2009, published in Subsidiary Legislation 5769-2009

promotion of its objectives and is therefore likely to be in contravention of Section 27 of the Law.

An Amuta will not be entitled to receive a Certificate of Proper Management in the event of the salary expenses that it is paying being unreasonable to such a degree that it might constitute use of the Amuta's Funds other than for its objectives.

In all matters pertaining to the fixing of a limit for remuneration of senior officials in Amutot, reasonableness of such remuneration is examined by taking into account the following factors:

1. Size – the annual turnover of the Amuta.
2. Independence – the percentage of support and budgets from the State out of the total financial turnover.
3. Efficiency – percentage of administrative and general expenses out of the total financial turnover.
4. Management Quality – absence of deficit, increase in activity, efficiency of the Audit Committee etc.
5. Quality of the officeholder – qualifications, education, professional experience etc.

According to the rules of proper management the Amuta must be meticulous in ensuring that administrative and general expenses do not exceed a reasonable percentage of the Amuta's annual turnover. The Registrar of Amutot will intervene in this regard in extreme cases in which concern arises that such expenditure is unreasonable to the extent that suspicion arises as to a distribution of profits or use of the Amuta's Funds contrary to its objectives.

The Accountant General has published rules in respect of administrative and general expenses as a condition for providing support. The Accountant General's rules relate both to the percentage of administrative and general expenses out of the total financial turnover of the Amuta and to the definition of the components that must be included in such expenses. The instructions of the Accountant General in this matter can be viewed on the Ministry of Finance website.

Payment of Remuneration to Executive Board Member, Executive Board Chairman and Audit Committee Member

There are three sections in the Amutot Law that deal with the question of remuneration to Executive Board Members.

Section 26A of the Law provides that the General Assembly may decide to pay remuneration to Executive Board Members and to determine the amount of such remuneration, subject to Regulations made by the Minister of Justice in relation thereto. Section 33 (a) (2) of the Law provides that if a person provides services to the Amuta for remuneration, other than as an Executive Board Member, he cannot serve on the Executive Board. It follows from this that it is prohibited for an Executive Board Member to be an employee of the Amuta or provide it with various services for remuneration. Section 34A of the Law empowers the Minister of Justice to make regulations *inter alia*, with regard to the remuneration of Executive Board Members and Audit Committee Members.

The purpose of the aforementioned provisions of the Law is to ensure that in the Amuta's Institutions, only officeholders that have the best interests of the Amuta at heart, as appropriate for a non-profit institution, shall be serving.

The Executive Board Chairman, Executive Board Members and Audit Committee Members may only receive remuneration for actual participation in meetings and this only after approval of the General Assembly as to the nature of the payment and the amount thereof. In any event, no employer-employee relationship shall exist between an Executive Board Member/Audit Committee Member and the Amuta and the Executive Board Member/Audit Committee Member will not be entitled to social benefits.

The Minister of Justice instituted regulations on February 23, 2009 in relation to this matter pursuant to Section 34A of the Law, which are effective as from February 23, 2010, with regard to the top limit of payment that the General Assembly may approve for an Executive Board Chairman, an Executive Board Member or Audit Committee Member for actual participation in a meeting and reimbursement of expenses. Until February 23, 2010 the provisions that apply are the ones that were published in the previous Proper Management Manual which can be viewed on the internet site of the Registrar of Amutot.

According to the Regulations, and as set out in detail in the table below, the amount of remuneration that can be paid to one of the members of the said institutions depends on the turnover of the Amuta. The higher the turnover of the Amuta so will the amount of the remuneration increase that can be paid to one of the members of the institutions enumerated above.

Section 34B of the Law provides in relation to the level of remuneration, that the Amuta's turnover is defined as – “the amount of annual receipts of the Amuta from every source and category, received on average in the last 3 fiscal years, and if 3 fiscal years have not yet elapsed since the establishment of the Amuta – the amount of such receipts as have been received on average in the fiscal years since its establishment”.

The regulations prescribe a limit for the number of meetings of the Executive Board, a Permanent Committee of the Executive Board, or the Audit Committee, that can be held in the course of a year. This number is not dependent on the Amuta's turnover. A Permanent Committee is a committee appointed by the Executive Board to deal over a period of time with the subject coming under its authority, when the nature of the Amuta justifies the appointment of a committee to deal with such a matter.

Financial turnover of the Amuta in millions of Shekels	Maximum number of meetings of the Executive Board annually	Maximum number of meetings of Audit Committee annually	Maximum number of meetings of Permanent Committee of the Executive Board	Maximum remuneration per meeting for Executive Board/audit committee member in NIS	Maximum remuneration per meeting for Executive Board Chairman in NIS
Up to 10	12	12	8	505	555
Above 10 and up to 25	12	12	8	605	675
Above 25 and up to 50	12	12	8	805	1030
Above 50 up to 100	12	12	8	990	1230

Notwithstanding what is stated in the table, if because of circumstances relating to special activities of the Amuta for the promotion of its objectives, the number of meetings has exceeded the number stated above in the table, the Amuta may pay remuneration in respect of such exception solely with the approval of the General Assembly. In any event payment for an exceptional case can be approved of up to 150 percent (one and a half-times) the number of meetings stated in the aforementioned table.

In an Amuta in which no General Manager is serving in office, the General Assembly may prescribe that a fixed annual remuneration shall be paid to the Executive Board Chairman for his service in office as Chairman of the Executive Board, as detailed below.

Financial Turnover of the Amuta in million of Shekels	Maximum Annual Remuneration in New Shekels
Up to 10	15,000
Above 10 and up to 25	21,115
Above 25 and up to 50	41,235
Above 50 up to 100	73,505
Over 100	90,615

The above mentioned annual remuneration is in lieu of remuneration for attendance at the meetings.

Reimbursement of Expenses in relation to Participation in Meetings

As a general rule, the remuneration payable to an Executive Board Member, Executive Board Chairman, or to a Member of the Audit Committee, includes cover of all the expenses in connection with participation in a meeting. In certain cases, the Amuta may pay the Executive Board Chairman, Executive Board Member or Audit Committee Member reimbursement of expenses in connection with attendance at a meeting in addition to remuneration for attendance at a meeting or the annual remuneration for the Executive Board Chairman. The following are cases on the occurrence of which the Amuta may consider whether to reimburse expenses:

- Case 1: A reimbursement of actual travelling expenses when an Executive Board Member, Executive Board Chairman or Audit Committee Member resides at a distance of more than 40 km from the venue of the meeting. If the Amuta has decided to pay expenses in such a case, the General Assembly must prescribe, once a year, a table of amounts according to which reimbursement of travelling expenses shall be paid, after having paid regard to the rules applicable in the Civil Service in the matter in question.
- Case 2: Reimbursement of actual travelling expenses when when an Executive Board Chairman, Executive Board Member or Audit Committee Member is a disabled person who has produced a medical certificate that he requires special travelling expenses as a result of his disabilities. The definition “disabled person” under the Law is: “a person with physical, mental or intellectual handicaps including cognitive, whether of a permanent or temporary nature who is restricted in a substantial way because of it in functioning in one or more of the main areas of life”.
- Case 3: If the annual financial turnover of the Amuta exceeds NIS 50 million and more than one third of the Members of its Executive Board are not Israel residents, the Amuta, with the prior approval of the General Assembly, may pay reimbursement of actual travel and accommodation expenses in respect of one Executive Board Meeting per year that has taken place outside Israel.

If more than half of the Members of the Executive Board are not Israel residents, the Amuta may pay reimbursement of actual travel and accommodation expenses in respect of two Executive Board Meetings per year that have taken place outside Israel.

Payment will be made according to the table of amounts specified by the General Assembly once a year taking into account the rules in practice in the Civil Service in the matter in question.

- Case 4: If the financial turnover of the Amuta exceeds NIS 50 million, the Amuta may pay an Executive Board Member who is not an Israeli resident, reimbursement of actual travelling and accommodation expenses for the purpose of attendance at Executive Board Meetings in Israel.

Payment will be made according to the table of amounts specified by the General Assembly once a year taking into account the rules in practice in the Civil Service in the matter in question.

- Case 5: If the Amuta is not paying any remuneration for participation in meetings, or is making partial payment of remuneration for participation in meetings, lower than the maximum amount prescribed in the regulations as detailed as above in the table – the Amuta may reimburse expenses to the Executive Board Chairman, an Executive Board Member or Audit Committee Member even if the conditions detailed in the previous Cases 1-4 do not apply, in accordance with such rules and procedures as the General Assembly shall prescribe, having given regard to the number of meetings and the expenses actually incurred.

The reduced remuneration that is payable (if payable) together with reimbursement of the expenses shall not exceed the maximum remuneration for a meeting and the reimbursement of expenses under the circumstances stated above, that it would have been possible to pay such person under the regulations.

Reimbursement of Expenses in connection with promoting the objectives of the Amuta

In addition to remuneration for participation in meetings and reimbursement of expenses in connection with such participation, or annual remuneration for the Chairman of the Executive Board, as outlined above, an Amuta may pay an Executive Board Member or Executive Board Chairman his travelling expenses in Israel or his travelling and accommodation expenses outside Israel for the purpose of his activities in promoting the objectives of the Amuta, if the following conditions are satisfied:

- The Executive Board made a decision in advance, with approval of the Audit Committee, as to the types of activity that the Executive Board Member or Executive Board Chairman shall engage in on behalf of the Amuta (unless the Executive Board Chairman is receiving annual remuneration in which case the making of such a decision is not mandatory).
- Payment of the actual expenses has been approved by the Executive Board.
- The expenses are reasonable in the circumstances, having given regard to the usually accepted practice as to reimbursement of expenses in the Civil Service, and the expenses are necessary for the purpose of carrying out the aforementioned activity directly, and the General Assembly has prescribed rules and procedures in relation thereto, once a year. The Executive Board Member or Executive Board Chairman has reported as soon as possible to the Audit Committee and to the Executive Board as to the results of the said activity on behalf of the Amuta and the Executive Board has reported to the General Assembly of the expenses paid and of the results of such activity.

In an Amuta whose financial turnover exceeds NIS 100 Million, approval can also be given for the purpose of promoting the objectives of the Amuta and in accordance with the above mechanism, for expenses of another kind that are not traveling expenses (in Israel) or expenses of travel and accommodation (overseas). The same applies to an Amuta with a lower financial turnover, if it is not paying any remuneration.

Transfers of Funds or Assets to other Corporations for nil Consideration

In terms of rules of proper management, an Amuta may transfer funds or assets to another non-profit corporation provided that it strictly observes a number of conditions, as follows:

1. Transfer of funds/assets to another body is explicitly consistent with the registered version of the Amuta's objectives.

2. The funds/assets will be transferred to a corporation with similar objectives, provided that it is a non-profit-making corporation that may not distribute profits to private parties, even upon winding up.
3. A donor or transferor of funds/assets to the Amuta is aware that the funds/assets might possibly be transferred to another corporation.
4. In a case in which an amount or an asset is transferred that could have a substantial affect on the Amuta's activity, the matter must be brought before the General Assembly prior to the transfer of funds. In any other case, the matter requires the approval of the Amuta's Executive Board.
5. The Amuta will maintain supervision over the use of the funds/assets pursuant to the purpose of the transfer.
6. The corporation to whom the funds/assets are transferred is in possession of a Certificate of Proper Management or a corresponding certificate from the the official body supervising it.

In relation to supported Amutot, they must proceed in accordance with the Accountant General's Rules in all matters pertaining to the transfer of funds to other bodies. Furthermore, as to Amutot that are in possession of a certificate under Section 46, they must proceed in accordance with the rules of the Tax Authority in this regard.

The Amuta must set out such aforementioned transfers in detail as part of the Verbal Report, in the relevant sections thereof.

Loans

An Amuta may lend money to another non-profit corporation provided that the aforementioned rules have been satisfied in relation to transference of funds.

However, an Amuta may make a loan to another corporation even if not all the rules pertaining to the transfer of funds are satisfied, subject to the following conditions:

1. The borrower corporation is a non-profit corporation.
2. The objectives of the borrower corporation are similar to the objectives of the lending Amuta.
3. The loan has been duly approved by the Executive Board of the lending Amuta.
4. A Loan Agreement has been signed between the Amuta and the corporation containing reasonable loan conditions, including the interest rate, repayment terms, and repayment date.

5. Reasonable securities have been provided for repayment of the loan.
6. There is nothing in the loan that could prejudice the activity of the lending Amuta (*inter alia*, that the loan amount is reasonable in proportion to the annual turnover, and that the amount of the loan and the period of the loan stipulated for repayment of the money do not prevent or delay the accomplishment of programs of the lending Amuta).
7. The Executive Board is satisfied that the borrowing Amuta is able to meet the loan repayment on the stipulated dates.
8. To the best knowledge of the Executive Board and based on data presented to it, there are no significant shortcomings in the way in which the borrowing Amuta is being managed.

An Amuta may grant loans to its employees provided that the terms of the loans are reasonable, and in accordance with what is usually accepted in the market in relation to a loan by an employer to an employee.

If the objectives of the Amuta include a granting of loans such as for charitable purposes, the Amuta may grant loans in accordance with its objectives, and provided that it sets reasonable, detailed and clear criteria for the granting of loans and strictly ensures equality between the recipients of the loans in accordance with the criteria that it has set.

An Amuta may not grant loans to its members who are not employees (unless the objectives of the Amuta include the granting of loans for charitable purposes and the members meet the aforementioned criteria, and are not Executive Board Members or Audit Committee Members).

Manner of Payment of Stipends

It has been prescribed in accordance with the rules of proper management that, as the making of payments in cash adversely affects the possibility of exercising a minimum degree of control over expenditure of the Amuta's funds, a Certificate of Proper Management will not be issued to an Amuta that is paying stipends in cash.

Payments of stipends will therefore be made by means of checks to "Payee only".

In any event meticulous care must be taken to ensure that distribution of stipends in an Amuta is carried out in accordance with fixed, equal and publicly stated criteria.

Donations

According to the Second Schedule to the Amutot Law, an Amuta must keep an internal register of donors, and record in it all such assets (including moneys) as it has received as

donations or as gifts, and the record must include the name of the donor, a description of the asset received and the date of its receipt.

The internal register of donors of the Amuta must be open to scrutiny of the Executive Board Members, Examiners on behalf of the Registrar of Amutot, the Income Tax Commission and other bodies who are empowered by law to examine the register.

According to the Schedule, an Amuta need not record in the financial statement, the name of a donor who has asked to be anonymous if the amount of the donation does not exceed the maximum amount set by the Minister, or where the Registrar has given special approval not to state the name of the donor in accordance with processes and procedures prescribed by the Minister.

In 2002 the Amutot Regulations (Determination of Maximum Amount and Procedures for Recording of Donations in the Financial Report as Anonymous), 5763-2002, were enacted. In the Regulations it was stipulated that the maximum amount of a donation in respect of which an Amuta need not record the name of the donor in the financial statement, is NIS 20,000 per annum.

It was also stipulated that the Registrar may grant special permission to an Amuta not to state in its financial statement the name of a donor who has donated more than NIS 20,000 if he is satisfied that this is justified in the circumstances of the case, after a reasoned application in writing has been submitted to that effect, setting out in detail therein the name of the donor, his identity number, his address, the amount of the donation and the reason for the necessity of the donor's anonymity.

Donations from a Foreign State Entity

Under Section 36A of the Law – an Amuta whose financial turnover exceeds NIS 300,000, must state in the Financial Statement whether it has received donations from “a Foreign State Entity” (see definition below) in the year to which the Statement relates. This concerns donations whose aggregate value exceeds the sum of NIS 20,000.

If the Amuta has received such donations, it must state in the Financial Statement: the identity of the donor, the amount received, the purpose of the donation or its designation and the conditions attached to the donation, if any.

The Amuta is under a duty and is responsible for doing all that it can to ascertain whether the donation has been received from a Foreign State Entity.

An Amuta receiving such donations from a Foreign State Entity is under an obligation to publish the aforementioned information on its internet website. If the Amuta does not have an internet website, it must give notice thereof to the Registrar of Amutot, who will publish the information on the Ministry of Justice website.

A “Foreign State Entity” under the law can be summarized as follows:

- (1) A Foreign State including –
 - (a) A union, organization or association of foreign states;
 - (b) An organization, authority or representation of a foreign state or of a union of foreign states;
 - (c) A local or district authority, a government authority of a foreign state or of a state that is a member of a union of states in a foreign state;
 - (d) A union, organization or association of foreign bodies;
- (2) The Palestinian Authority;
- (3) A corporate body established by regulations of one of the bodies detailed in Paragraphs (1) and (2), or where such a body as mentioned above holds more than one half of a particular class of the means of control in such a corporate body, or has appointed the corporate body to act on its behalf; in this respect, “means of control”, and “holding” – shall have the meanings assigned to them in the Securities Law 5728-1968;

It should be emphasized that with regard to a donation from a foreign state entity, the Amuta has no right to request that the name of the donor remain anonymous.

Registration of the Amuta’s Assets

Members of the Executive Board must strictly ensure that all the rights of the Amuta, including rights to assets in respect of which due registration is available, shall be duly registered in the name of the Amuta.

An Amuta may purchase a vehicle for its use with a view to promoting its objectives. The vehicle shall be registered solely in the name of the Amuta. The considerations and criteria for the choice of the vehicle shall be reasonable considerations with reference *inter alia* to the cost of purchase and maintenance of the vehicle and depending on the type of Amuta, the nature and scope of its activity and its financial turnover.

With regard to vehicles belonging to the Amuta and which were registered previously (before publication of these rules) in the name of another party, there is no obligation to transfer the vehicle into the name of the Amuta where this is likely to cause a substantial decrease in the value of the vehicle, but there is an obligation to effect a lien on the vehicle in favor of the Amuta.

Preservation of the Amuta’s Assets

An Amuta that owns property or an asset, irrespective of whether acquired as a donation or purchased by it, must duly preserve such property and obtain from it the maximum advantage that may be produced from it.

If the Amuta has funds that are not immediately required for its ongoing activity for the promotion of its objectives, it must invest them safely in order to preserve their value subject to such policy as shall be determined in this regard by the Executive Board, provided that this shall not involve an unreasonable accumulation of assets as detailed in the Chapter entitled “The Objectives of the Amuta”.

An Amuta may not transfer any of its assets without receipt of adequate consideration or place it at the disposal of another authority for nil consideration or for reduced consideration, if this is inconsistent with its objectives and does not comply with the rules of proper administration that apply to the transfer of moneys to another party. These matters should apply all the more so to a transfer of assets to parties with whom parties in the Amuta are related by family, or business or other association. In cases such as these, such a transfer of assets is likely to be deemed an improper distribution under Section 34C of the Law and to give rise to the imposition of personal liability on Members of the Executive Board in respect of such transfer.

These provisions relate to all the Amuta’s assets such as real estate, goods and chattels, shares, goodwill etc.

Amuta Appointed as Trustee of a Public Endowment

A Public Endowment is a legal concept that is intended to describe a situation in which a certain person or body has donated or has bestowed a certain asset for the public good, and has stipulated special instructions for dealing with such asset, and has appointed another person or body to be responsible (“Trustee”) for implementing such special instructions in relation to the asset. On many occasions these special instructions provide that the asset itself may not be used but only its profits. Thus for example a person sometimes donates a certain sum of money, and stipulates that the profits of the asset shall be used for the purpose of scholarships for students, and appoints a certain person as being responsible for dealing with the sum of money concerned and distribution of the scholarships. In practical terms this type of situation amounts to the creation of a public endowment .

Under the Trustee Law, 5739-1979, the Trustee is under an obligation to register a public endowment with the Registrar of Endowments.

On many occasions an Amuta is appointed as trustee of a public endowment by a donor or bestower. In such a case the Amuta is under a duty to register the endowment with the Register of Endowments. It should be emphasized that this duty also exists in relation to Public Endowments created previously and not yet registered.

If the Amuta has been appointed as trustee of an endowment, it must appropriately express this fact in the financial statement making it clear that this is a case of assets of an endowment.

FAMILY RELATIONSHIP AND CONFLICTS OF INTERESTS

General

An Amuta wishing to engage an employee or enter into a Contract with a self-employed contractor, must take into account the suitability of the employee or the contractor in terms of his skills, know-how and willingness to perform the relevant tasks etc. Before engaging the employee and after taking account the terms of the contract, its amount and substance, the Amuta must afford an opportunity to bidders to offer themselves on free market terms. It should be noted that this does not mean that the Amuta will be committed to engaging in a tendering process unless this is necessary in the circumstances of the case by reason of the nature of the Amuta and the nature of the Contract.

This also applies when an Amuta orders a service or a product from a supplier, it must check whether in terms of the price, the quality etc. this is the best offer that it is possible for the Amuta to obtain.

These principles are especially valid when the Amuta is a dual-purpose body, namely Amutot supplying an essential service to the public of substantial scope, such as an Amuta that is a Burial Society, sports association etc.

Family Relationship

In the Amutot Law there is no express provision regarding restrictions in relation to family relationship within one of the institutions of the Amuta, between members of the institutions and as between themselves, as well as between Members of Institutions of the Amuta and the Amuta's employees.

Nevertheless, and as a consequence of Section 27 of the Law which provides that Members of the Executive Board shall act in the interest of the Amuta, proper management requires the employment of employees in accordance with objective criteria and taking into account the best interests of the Amuta and not according to considerations of family relationships. Additionally, in certain circumstances, payment of remuneration to a relative of an Executive Board Member (either within the framework of the Amuta or as part of a subsidiary corporation under the Amuta's control) is liable to be deemed a circumvention of Section 33 (a) (2) of the Law which provides that a person shall not serve as an Executive Board Member or as an Audit Committee Member if he is providing services to the Amuta for remuneration other than as an Executive Board Member or Audit Committee Member.

Engagement of Employees

The engagement of relatives of Executive Board Members, Audit Committee Members or the Audit Body is liable to lead to a situation of a conflict of interests between the function of the Executive Board Member to act in the interest of the Amuta or the function of an Audit Committee Member to exercise independent supervision of the Amuta, and the family commitment of the Executive Board Member or Audit Committee Member towards the employee, and furthermore there is thus liable to be a circumvention of the provisions prescribed in Section 33(a)(2) and Section 33(b) of the Law.

Therefore, relatives of Audit Committee Members or of the Audit Body shall not be employed by an Amuta.

However, as to Executive Board Members, it has been stipulated that in principle no more than 10% of employees who are relatives of Committee Members, shall be employed in an Amuta for remuneration, and alternatively, no more than 10% of the remuneration paid by the Amuta shall be paid to such relatives (even if the the number of relatives thereof is less than 10% of the total number of employees of the Amuta), other than in exceptional cases in which the nature of the Amuta justifies such an exception to this rule.

In the Third Schedule to the Amutot Law the term “relative” is defined as a – “brother, parent, grandparents, offspring, offspring of a spouse or the spouse of any of the foregoing”.

In other words a “relative” of an Executive Board Member or an Audit Committee Member in our present case is a husband/wife, brother/sister, father/mother, grandfather/grandmother, an offspring, step-child, spouse of a brother/sister (in-laws), stepfather/mother, step-grandparents and the spouse of an offspring (in other words son/daughter in law) even if the offspring is a stepchild.

It should be clarified that “an offspring” is not only a person’s son or daughter but also a grandson/granddaughter, great-grandson/great-grand-daughter, and so forth.

Family Relationship between Executive Board Member and Audit Committee Member

In view of the provision in the Amutot Law, whose purpose is avoiding conflicts of interest between the Executive Board & the Audit Committee, that an Executive Board Member shall not serve in office simultaneously as an Audit Committee Member, it has been determined as a matter of principle that a relative, as defined above, of an Executive Board Member, shall not serve on the Audit Committee.

Family relationship within the Executive Board and the Audit Committee

Generally speaking, when there are more than two members on the Executive Board or on the Audit Committee, a majority of the Executive Board Members or Audit Committee Members shall not be inter-related, and this so as to avoid a situation of a conflict of interests between the family interests and the interests of the Amuta.

Other Conflict of Interests Situations

When a persons' affairs give rise to a situation in which a real concern exists that a function in the Amuta will not be properly performed by him in the interest of the Amuta, the Amuta must avoid allowing such person to perform such function.

If an officer of the Amuta is in a conflict of interests situation in a specific matter that does not preclude him serving in office in the Amuta as aforementioned, and the matter is not prohibited under the provisions of Section 33(a) (2) of the Amutot Law (prohibition on providing services for remuneration by an Executive Board Member or Audit Committee Member as has been explained above), and it is not a case of a distribution of profits, the person in such position must refrain from participation in the deliberations and from expressing an opinion in relation to the matter.

The Amuta must take care when undertaking transactions with bodies connected with the Amuta, so as to avoid in so far as is possible, undertaking prohibited conflict of interest transactions. In the event of the Amuta deciding to enter into a transaction with a related corporate body, it must impose more stringent terms on itself than it would in undertaking the same transaction with an unrelated corporate body.

SPECIAL PROVISIONS

Dual-Purpose Body

According to Court decisions, situations may possibly arise in which an Amuta will be defined as a “dual purpose body”, namely a body having a private element and a public element, and accordingly more stringent rules will apply to it, than are usually only mandatory in the case of public bodies such as Government Ministries, Municipalities etc.

Judgments that have dealt with this subject specify several main elements by which the question is to be examined as to whether the Amuta is a dual purpose body:

- (a) Whether the body’s action is dominated by a matter involving an important public interest.
- (b) Whether, and to what extent the body is benefiting from being a monopoly.
- (c) Whether the body receives direct/indirect budgetary support, or earns its livelihood in another way from the general body of taxpayers.
- (d) Whether there is a close connection with an important administrative authority to the extent that the public is likely to tie the body’s activities with such an authority and also attribute its shortcomings to it.
- (e) Whether the activity of such a body involves religious, ethnic, traditional or cultural sensitivities.

There is no conclusive list and in so far as the body contains more elements that reveal its hand as being a body possessing public aspects thus will the presumption be greater to view it as a dual purpose body.

Thus for example, a Jerusalem Burial Society was recognized as a dual–purpose body, and therefore certain public law–related obligations were imposed on it.

The enlarged obligations that are likely to be imposed on Amutot that are dual purpose in nature, are the duty to act on an especially egalitarian basis, with absolute transparency, the holding of tenders in line with the requirements of the Law of Obligation of Tenders etc.

In so far as the Amuta has more public elements, it must also adopt more public law-related obligations in the context in which it conducts itself.

Special Law applicable to Amutot

In many cases, in addition to the Amutot Law and the standard rules of proper management, certain obligations will apply to Amutot by virtue of a special law that is likely to apply to them. Thus for example, the Sports Law or the Adoption Law is likely to apply to some Amutot. In such a case it is obvious that an Amuta must, in addition to the provisions of the Amutot Law, also comply with the provisions of the other law that applies to it. Similarly, if an Amuta undertakes a certain activity that requires it to be appropriately licensed it must ensure that such licensing arrangements are duly made.

Merger of Amutot

On December 21, 2009, an amendment to the Amutot Law was enacted which facilitates and governs for the first time, a merger between two or more Amutot or between an Amuta advancing public purposes, one or more, and a Public Benefit Corporation, one or more. The purpose of the amendment was to ameliorate Amutot wishing, as a result of economic difficulties or for other reasons, to consolidate their activities.

The merger will be effected, as a general rule, pursuant to the provisions of the Companies Law 5759-1999 (hereinafter – The Companies Law) in relation to mergers, and as a result of the merger at least one corporation will be liquidated (the designated corporation) and all its assets and liabilities will be transferred to the other corporation (the absorbing corporation). In Chapter 4B of the Amutot Law, the necessary adjustments have been included that arise from the special nature of the merging corporations, as well as the special adjustments arising from the possible merger between different types of corporations – an Amuta and a Public Benefit Corporation. Thus, for example, the special considerations that have to be weighed by the General Assembly or the Board of Directors or the Executive Board, as the case may be, in considering whether to approve the merger, have been prescribed, and they include – aims of the designated corporation (the corporation that is being liquidated as a result of the merger) *vis-à-vis* the objectives of the absorbing corporation (the corporation to whom the assets and liabilities are being transferred), and the assets that have been accumulated for the purposes of the merging corporation and the obligations for which the merging corporation has assumed responsibility and in particular *vis-à-vis* its donors. It should be emphasized that it may be the case that the donors have made a donation to a particular corporation, for a particular purpose or for particular projects, and therefore it must be ensured in so far as is possible, that there is also continuing compliance with obligations to them, following the merger. The merger requires approval of the Board of Directors and the General Assembly is also required to approve the merger by a majority of 75% of those present and voting (similarly to the majority required for the adoption of a resolution for winding up a company), unless a different majority has been prescribed in this regard in the Company's Articles or in the Amuta's By-Laws. In the event of the merging corporations being related corporations, as such as are defined in Chapter 4B of the Amutot Law, the merger also requires approval of the Audit Committee or Audit Body, of each of the merging corporations.

In addition, the merger will require approval of the District Court after an opportunity has been afforded to the Registrar of Endowments or the Registrar of Amutot, as the case may be, to express his opinion about the process. This *inter alia* is in order to apprise the Court of the interests of donors who have made donations to a corporation wishing to merge, and also in order to apprise the Court of compliance with the legal requirements by each of the corporations before merging. The Court, in its deliberations as to approval of a merger, is required to examine the objectives of the merging corporations, the connection between the merging corporations, if any exists, and the degree of compliance of the merging corporations with the provisions of the law, and all in order to ensure that the merger is consistent with the public interest and will advance the public objectives of the merging corporations, without prejudice to the obligations of the merging corporations, for example *vis-à-vis* donors, specially designated donations etc. The Court may make the merger conditional on various arrangements, such as in light of obligations of either of the merging corporations towards its donors.

It is recommended that an Amuta that is considering a merger with another Amuta or with a Public Benefit Corporation should seek appropriate professional advice in connection with the merger.

In-depth Audit on behalf of the Registrar of Amutot

As part of the annual work program of the Registrar of Amutot, the Registrar undertakes pro-active in-depth audits of Amutot, through Accountancy Firms acting on his behalf. The number of in-depth audits that are carried out every year is between 500 and 1,000. The audit is carried out in a range of Amutot from different sectors of activity and having an annual turnover of differing amounts. The purpose of the audit is to check that the Amuta is indeed acting in accordance with the law, is being properly managed and is promoting its objectives. The audit on behalf of the Registrar of Amutot is not carried out instead of other audits on behalf of Government Ministries, which generally focus on professional matters in respect of which special support has been provided by the Ministry, or that are under the supervision of such Ministry.

The audit findings are forwarded by the Auditor who carried out the audit, to the Registrar of Amutot, and this is after the forwarding of a draft to the Amuta for its response, and the Registrar is likely to decide, depending on the findings, on what action is appropriate: revocation of the Certificate of Proper Management, granting an extension of time for rectification of shortcomings, referral to a recovery program, and in certain cases even winding up. The audit findings are also likely to be forwarded for the attention of other parties, mainly where it is a case of a breach of a special statute that applies to the Amuta, and for which such party is responsible. Similarly, there are forwarded to the Registrar of Amutot for his reference and for him to deal with, audit reports from other official parties, such as the Accountant General, the Ministry of Education, etc.

An Amuta whom a Firm of Accountants and Auditors has approached as such, shall fully cooperate in the furnishing of documents, in providing answers to questions and

providing assistance to the auditor during his visit to the Amuta. A failure to cooperate is of itself liable to put at risk the Amuta's Certificate of Proper Management, or to prevent its receipt in the future.

If an Amuta is in the midst of an in-depth audit, this does not of itself preclude receipt of a Certificate of Proper Management, unless at the initial stage of the examination grave findings have already been revealed, that justify revocation of the Certificate forthwith until conclusion of the examination. The Amuta must submit to the Registrar of Amutot such documents as it is bound to submit annually, and not to the Examining Auditor, even if the Amuta is in the process of an in-depth audit.

Certificate as to Submission of Documents

An Amuta that has not yet been active for two consecutive years prior to its application for a Certificate of Proper Management (whether due to it being new or whether due to it having been inactive) is not entitled to receive a Certificate of Proper Management, but, in the case of a new Amuta, it may obtain a Certificate of Submission of Documents and commencement of activity. Such a certificate will be issued after the Amuta has appointed institutions as required by law, has submitted the documents that it is supposed to submit pursuant to the law up to that date, has submitted a declaration to the Registrar as to the circumstances surrounding its establishment, has carried out basic actions such as opening a bank account and has proved commencement of activity.

This Certificate is not a Certificate of Proper Management, but it may serve the Amuta for the purposes of submission of an application to the Tax Authorities for the purpose of recognition as a "Public Institution", pursuant to Section 46 of the Income Tax Ordinance.

It is only on the expiration of two years of continuous proven activity of the Amuta (irrespective of the date on which it was incorporated), the submission of the necessary documents in accordance with the law, and compliance with the Rules of Proper Management, that the issue of a Certificate of Proper Management to the Amuta will be considered, should this be requested by it.

REHABILITATION OF AN AMUTA

General

When there are shortcomings in the functioning of the Amuta, which justify refusal to issue a Certificate of Proper Management, the appointment of an investigator, or submission of an application for liquidation, but the Amuta has expressed its readiness to rectify the shortcomings, and it is found that they are indeed capable of rectification, the Registrar of Amutot will consider giving the Amuta an opportunity of rectifying the shortcomings in the framework of a “Rehabilitation Scheme”.

A “Rehabilitation Scheme” includes an undertaking of the Amuta to act in accordance with the Registrar’s requirements, when subject to this being done, a Certificate of Proper Management or a Special Certificate within the framework of the Rehabilitation Scheme will be issued to the Amuta, and which will be revoked if the Amuta does not meet the conditions of the Scheme.

The “Rehabilitation Scheme” will be adapted to the type of shortcomings revealed in the Amutas' functioning. The Scheme will be prepared by the Registrar of Amutot Unit and the consent of the Amuta will be required for its implementation. In so far as the shortcomings are more serious, so will the degree of supervision by the Registrar of Amutot over the activities of the Amuta increase.

Examples of Types of Shortcomings and Rehabilitation Schemes

- (a) A large financial deficit (a deficit that might endanger the continued activity of the Amuta as a going concern, for example if the deficit exceeds 50% of the Amuta’s revenues for that year):

The Amuta must prepare a program for liquidating the deficit which includes a reference to the planned budget, anticipated resources and specific dates. Monitoring will be carried out by an Auditor on behalf of the Registrar, who will examine the quarterly trial balances in order to check that the Amuta is complying with the program.

- (b) Failure to record a singular financial transaction/failure to record one item in the financial statement/committing of a minor transgression of another law that does not involve financial irregularities or embezzlement:

The Amuta must submit quarterly reports of the Audit Committee, the Executive Board, or an Auditor. In a case of a shortcoming of a financial or accounting nature – submission of quarterly trial balances.

- (c) Failure to record a small number of financial transactions, insubstantial shortcomings in the accounting system:

The Amuta will be required to take one or more of the following actions: compliance with procedures that may be prescribed by the Registrar with supervision as to their implementation, participation of the Registrar's representatives in meetings, and receipt of any document as requested from the Amuta, preparation of quarterly reports and trial balance sheets as necessary, replacement of officials in the Amuta, demand for refund of moneys and filing of claims, should this be necessary.

- (d) A high frequency of failure to record financial transactions/defective book-keeping/ expenses or loans that are not consistent with the objectives of the Amuta, or the Rules of Proper Management/embezzlement of the Amuta's funds/financial management via a bank account of a member of the Amuta/failure to submit accounting documents to the Registrar of Amutot/use of companies not in line with the objectives of the Amuta/ committing of serious offences that are not connected with financial irregularities or embezzlement:

An overseeing financial controller will be appointed for the Amuta on behalf of the Registrar of Amutot.

The Amuta shall proceed in accordance with the demands of the overseeing financial controller, which shall include one or more of the following matters: compliance with procedures under supervision of the overseeing financial controller as to the implementation thereof, the overseeing financial controller having a right of veto over financial transactions (some or all of them), participation of the financial controller in meetings and submitting of any document that may be required from the Amuta, preparation of quarterly reports and trial balances if necessary, replacement of officials in the Amuta, demand for refund of monies and filing of claims, should this be necessary.

- (e) General legal shortcomings:

The Amuta will be required to take specific actions to rectify such a shortcoming.

- Note – the foregoing are merely stated for the purposes of examples only. The Rehabilitation Scheme will be formulated according to the specific circumstances applicable to each individual Amuta.

Following formulation of the Rehabilitation Scheme, the Amuta will sign an undertaking to implement the Scheme, and in a case in which an external supervising body or an overseeing financial controller is appointed, the Amuta will sign an agreement with regard to remuneration with such body or financial controller (the remuneration will be paid by the Amuta).

ADMINISTRATIVE FINES

The Administrative Offences Law, 5746-1985 (hereinafter “The Administrative Offences Law”) provides that specific criminal offences will also be defined as administrative offences. Under the Administrative Offences Law, a person committing an administrative offence will have an administrative fine imposed on him as a substitute for the filing of a criminal indictment. In March 2004, the Administrative Offences Regulations (Administrative Fine – Amutot), 5764-2004, were published (hereinafter “The Administrative Offences Regulations”). It is provided in the Administrative Offences Regulations that various offences defined in Section 64A of the Amutot Law shall be defined as Administrative Offences, and under such regulations an administrative fine amounting to between NIS 1000 – 2000 will be imposed, with the addition of a fine in respect of continuing offences, on an Amuta or on any person who has committed a breach of obligations enumerated in Section 64A of the Amutot Law.

As detailed in Section 64A of the Amutot Law, such a fine may be imposed due to failure to keep a register of Amuta members, a register of Executive Board members and account books, due to failure to hold a General Assembly as required in Section 20(a) of the Law, due to failure to keep minutes as required in Section 23 of the Law, due to failure to afford a right of viewing as required in Section 35(b) of the Law, due to failure to submit documents to the Registrar, etc.

The Registrar of Amutot imposes administrative fines in respect of a breach of the obligations detailed above, both on Amutot and on Executive Board Members responsible for a breach of such obligations.

LIQUIDATION AND PROHIBITION OF SALE OF THE AMUTA

Liquidation at the Amutas' Initiative

An Amuta that wishes to terminate its existence must engage in a process of voluntary liquidation (unless it wishes to merge with another Amuta or with another Public Benefit Corporation pursuant to the provisions of Chapter 4B of the Amutot Law).

The Amuta may initiate liquidation proceedings if a declaration of solvency is provided to the Registrar, pursuant to the procedures detailed in Sections 43-47 of the Amutot Law.

Additionally, in the context of Amendment No. 12 to the Amutot Law, Sections 49 and 50 of the Law were amended and the option of an Amuta initiating liquidation proceedings in Court was added, subject to the fulfillment of one of the following conditions :

1. The Amuta has adopted a resolution of liquidation at the General Assembly of the Amuta by a majority of two thirds of those voting at the Assembly in respect of which 21 days advance notice was given to all members of the Amuta, stating that such a resolution of liquidation would be proposed at the meeting.
2. The Amuta is unable to pay its debts (Section 49(4) of the Amutot Law).
3. It would be right and just that the Amuta be liquidated (Section 49(5) of the Amutot Law).

No transfer of the Amuta's assets shall be made as part of the liquidation proceedings, unless performed in accordance with Section 45 of the Law. In the event of assets remaining after payment of the Amuta's debts, they must be dealt with in accordance with the provisions of Section 58 of the Law, and must not be distributed between members of the Amuta.

Process of Voluntary Liquidation

The following is a procedure that has been formulated by the Registrar of Amutot Unit in relation to the process of voluntary liquidation:

The voluntary liquidation of an Amuta will occur in the manner prescribed in the Amutot Law, 5740-1980 (Chapter 7 Article 1), as well as in accordance with the provisions of the Amuta's By-Laws that deal with the liquidation of an Amuta.

The voluntary liquidation procedure enables the members to liquidate the Amuta without being subject to the instructions of the Court or of the Official Receiver.

The Liquidator is appointed by the members and acts under their supervision or the supervision of the Audit Committee.

The following are details of the steps which must be taken by the Amuta until conclusion of the voluntary liquidation procedures.

A. Declaration of Solvency

1. The basic condition for voluntary liquidation is the solvency of the Amuta. It should be noted that it is the responsibility of the Executive Board Members to examine the situation of the Amuta and as to its solvency.

A majority of the Executive Board Members must submit a declaration signed before an Attorney, to the Registrar of Amutot, in which it is stated that they have examined the state of the Amuta's business and are satisfied that the Amuta will be able to discharge its obligations in their entirety, within a year after liquidation has begun (Section 44 of the Law).

In an accompanying letter, details must be set out of the number of Executive Board Members and whether the members signing the declaration constitute a majority of the Executive Board.

B. First General Assembly

1. After submission of the declaration, a General Assembly must be convened. The Assembly will be convened by giving early notice to members as to the convening of the Assembly, stating that the Assembly will be asked to adopt a resolution of liquidation (Section 43(a)). The notice shall be sent 21 days prior to the convening of the Assembly.
2. The notice must be sent to all the members that are recorded in the members' register and the holding of the General Meeting must be subject to the provisions of the Law and the By-Laws and in particular with regard to the provisions relating to a General Assembly resolving to liquidate the Amuta.
3. The Assembly shall adopt a resolution for voluntary liquidation of the Amuta and appointment of a liquidator or liquidators. The liquidator can be one of the members of the Amuta. The resolution shall be adopted by a majority of two-thirds of those voting in the Assembly, or by a larger majority if so prescribed in the By-Laws.
4. The minutes of the General Assembly shall be signed with the original signatures of two of the Executive Board Members, and it shall be stated therein that the requirements as to early notice and attendance of the members have been complied with.

C. Functions of the Liquidator

1. The process of liquidation shall begin after two weeks have elapsed since adoption of the resolution, unless a later date was decided at the Assembly (Section 43(c)).
2. From the beginning of the liquidation, the Amuta shall no longer continue with any activity, except for actions that are necessary for completing the liquidation, and any power to act on behalf of the Amuta shall lie solely with the Liquidator (Section 55).
3. The Liquidator shall, within two weeks following his appointment taking effect, publish a notice as to the liquidation of the Amuta, and calling therein upon the Amuta's creditors to submit their claims to him within a reasonable time as set out in the notice (Section 46).
4. The notice shall be published in *Reshumot* and in two daily newspapers appearing in Hebrew.
If a majority of members of the Amuta are Arabic speakers, the notice shall be published in a daily newspaper appearing in Arabic.
The publication in *Reshumot* shall be placed by the Ministry of Justice. Details about publication can be obtained from Telephone number: 02-6466333.
5. The following is an example of a version of the notice:

<p>_____</p> <p style="text-align: center;">Name and Number of the Amuta</p> <p style="text-align: center;"><u>Notice of liquidation of the Amuta</u></p> <p>At the General Assembly of the Amuta dated _____ it was resolved to liquidate the Amuta and to appoint Mr./Ms _____ as Liquidator of the Amuta</p> <p style="text-align: center;"><i>(Name and address for the submission of claims)</i></p> <p>All creditors of the Amuta must submit their claims to the Liquidator, at the above address, within twenty one days of the date of the publication of this notice.</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Name of the Liquidator</p>
--

6. The functions of the Liquidator are:
 - (a) To receive the assets of the Amuta and collect the debts due to it from the members and from others;
 - (b) To realize the assets of the Amuta to the extent required for payment of its debts;
 - (c) To pay the debts of the Amuta including the costs of liquidation.

If a liability of the Amuta is being transferred to another body that is prepared to assume responsibility for the debt, written approval must be sent to the Registrar of Amutot from such a body to the effect that it assumes responsibility for such obligation. In addition, the consent of the creditor to a transfer of the debt to the other body will also be required.

- (d) With regard to the remainder of the assets – these must be dealt with in accordance with the provisions of Section 58 of the Amutot Law.

After the debts of the Amuta have been paid in full, the assets must be dealt with in accordance with the provisions of the By-Laws and provided that the Registrar of Amutot is satisfied that there is nothing in the said provisions that could lead to the assets of the Amuta being distributed, either directly or indirectly, after its liquidation, to members of the Amuta or to its founders, or to the assets being transferred, directly or indirectly, for purposes that do not closely resemble the objectives of the Amuta (it should be noted that if there was an explicit provision in the By-Laws prior to June 21, 2007 that provided that the assets of the Amuta were to be transferred for a particular purpose or to a particular body that do not closely resemble the objectives of the Amuta, it will be possible to proceed in accordance with such a provision, subject to the remaining provisions of the law). In the absence of any such provisions in the By-Laws, or in the absence of any practical possibility of proceeding in accordance with the provisions of the By-Laws, such assets shall, as directed by the Court, be dedicated for such purpose as the Court has determined as being closely resembling the objectives of the Amuta. Notwithstanding the foregoing, it can be provided at the time of transfer of an asset to the Amuta that following liquidation, such asset shall be transferred to the person who provided it to the Amuta or to such other person as the transferor of the asset has stipulated.

7. The Liquidator must perform his function efficiently and fairly, impartially and in accordance with the provisions of the Amutot Law.

The Liquidator is not an independent body but rather an organ acting on behalf of the Amuta during the liquidation, and not on his own behalf, because the Amuta continues to be an independent body although its legal capacity is restricted.

The Liquidator may incur personal liability because of his actions as part of the liquidation, such as, if he exceeds his authority or has acted unlawfully with the assets of the Amuta.

8. Any member of the Amuta or any of its institutions, any employee of it and any person or body that was formerly one of the above, must, at the request of the Liquidator, deliver to him any document in his possession and any information concerning the business of the Amuta or its affairs (Section 57).

9. The Liquidator shall prepare a report concerning the liquidation.

In such report a general explanation will be provided concerning the activities of the Amuta prior to the liquidation, its establishment, names of the Executive Board Members, the reasons for the liquidation, the names of the Auditor and the Attorney

of the Amuta, listed details of the bank accounts, a detailed breakdown of the Amuta's assets, significant events that have occurred in the Amuta, creditors and claims against the Amuta. Subsequently, all such actions as the Liquidator has taken in his capacity as Liquidator will be detailed, namely, receiving the assets and realizing them, submission of claims and collection of debts, payment of debts and proof of debt procedures, and what has been done with the rest of the assets (Section 47).

10. The report is to be forwarded to the Audit Committee or the Audit Body, and they shall approve the report.

The provisions of Section 37 will apply to this report, *mutatis mutandis*, in other words the Liquidator's Report will be examined by an Auditor when it refers to an Amuta that is obligated to appoint an Auditor under Section 19 (c), or when the Registrar has so directed on his initiative, or at the request of the Audit Committee, or one-tenth of all the Members of the Amuta.

D. The Final General Assembly.

1. The Liquidator shall convene a final General Assembly and present the Report for its approval.
2. The Liquidator shall submit a copy of the Report and the Minutes of the General Assembly (Section 47(b)) to the Registrar,. The Minutes of the General Assembly shall be signed with the original signatures of two of the Executive Board Members.

General

1. A voluntary liquidation shall not derogate from the power of the Court to issue a liquidation order. If a liquidation order is issued by the Court, the liquidation by the Court will be deemed to have commenced on the date of commencement of the voluntary liquidation.
2. The Court may, at the request of the Liquidator, or of a member of the Amuta or of a creditor, give the Liquidator instructions in any matter pertaining to the liquidation.
3. The documents that must be submitted to the Registrar of Amutot are:
An Affidavit of a majority of the Executive Board Members, Minutes of the first General Assembly, a copy of the publication in two daily newspapers, a copy of the publication in *Reshumot*, documentary proof of transfer of funds and assets to another Amuta, stating the name and number of the recipient Amuta, the Liquidator's Report approved by the Audit Committee, Minutes of the final General Assembly including completion of the liquidation, financial statements for the last four years.
4. At the conclusion of the process the Registrar of Amutot will issue a certificate as to conclusion of the voluntary liquidation procedures.

Prohibition of Sale of an Amuta

Section 17 of the Amutot Law provides that “Membership in an Amuta is personal and cannot be transferred and cannot be inherited”. As distinct from a company, Amuta members have no proprietary right in an Amuta; they may neither sell nor transfer membership in the Amuta to another.

It is not therefore possible to sell an Amuta. In the event of the Amuta wishing to transfer its activity to another Amuta, with similar objectives, it must adopt a resolution to that effect at the institutions of the Amuta. In the case of a transfer of all the Amuta’s activities, the transferring Amuta must effect a merger with the other body pursuant to the provisions of Chapter 4B of the Amutot Law (see above). Alternatively, the transferring Amuta may transfer its activity in the context of the liquidation procedure. In such a case, the absorbing Amuta must adopt a resolution at the institutions of the Amuta as to receipt of the activity and must assume personal responsibility, with effect from the date of the transfer, for all the liabilities and rights entailed therein.

Prohibition of Transfer of the Amuta’s Assets to its Members after Liquidation

In accordance with Section 58 (a) of the Law, it is prohibited to transfer an asset of the Amuta to any of its members after voluntary liquidation of the Amuta or after liquidation under a Court Order, and such prohibition also applies to an asset provided by a member of the Amuta to the Amuta prior to the liquidation. For the aforementioned asset to be excluded from the applicability of the aforementioned prohibition, the Amuta must prescribe on the date of transfer of the asset, in the By-Laws or in an agreement, that upon the conclusion of the liquidation it shall be returned to the transferor member or to such other person as he shall stipulate, pursuant to Section 58(b) of the Law.