



CYPRUS' NEW ALTERNATIVE INVESTMENT FUNDS LAW

The Alternative Investment Funds Law of 2014 (the "AIF Law") was enacted by the Cyprus House of Parliament on 10 July 2014. The AIF Law updates the funds regime in Cyprus and aligns it with the latest EU directives on alternative funds, funds management and investor protection. The AIF Law replaces the International Collective Investment Schemes Law (the "ICIS Law"), which will eventually be depleted.

Main features

The AIF Law provides for two classes of AIF, namely AIFs available to an unlimited number of investors ("unlimited") which may be marketed to all investors, including retail investors and those available to 75 investors or fewer ("restricted") marketed only to well-informed or professional investors. The definition of a professional investor follows the Markets in Financial Instruments Directive 2004/39/EC. A "well-informed" investor is an investor who is either considered to be a professional investor under MiFID definition, or one who confirms in writing that he is a qualifying investor and has been notified of the risks associated with investing in the AIF. Further, he invests at least €125,000 in the AIF or has been evaluated by a bank or regulated investment business as a well-informed investor possessing the appropriate expertise and knowledge. AIFs may be structured as variable or fixed capital companies or as limited partnerships. In addition, unlimited AIFs may be structured as a mutual fund. The unit trust structure provided for by the ICIS Law is no longer available.

The legislation modernizes the regulatory aspects of AIFs in Cyprus while also expanding the options available for fund promoters. It brings Cyprus up to par with other EU.

Why Set Up Your AIF (Private) Fund in Cyprus

- EU member state and compliant with EU laws and regulations.
- Mature business centre with developed infrastructure, highly qualified professionals and minimum formalities.
- Wide and efficient network of legal, accounting and banking services.
- Competitive setting-up and on-going costs structures and funds in the EU
- Favourable tax regime in the EU, especially for non-residents.
- Combination of effective regulations, flexibility and incentives.
- Hedge fund and hedge fund managers location.
- AIFS, ICIS, UCITS, can be listed on CSE and other recognized EU stock exchanges.
- Re-domiciliation in and out is possible.

Cyprus based AIFMs and AIFs will benefit from low tax burdens levied on Cyprus based corporations. Further, non-Cypriot investors in Cyprus AIFs will, at the time of a redemption or distribution of a Cyprus AIF, benefit from an extensive double tax treaty network investment fund jurisdictions. Specifically, the key new features of the Cyprus' fund regime are:

- The AIF Law introduces a Single Regulator, the Cyprus Securities and Exchange Commission ("CySEC") for the regulation and supervision of alternative investment funds ("AIFs"), bringing all investment products, asset managers and investment firms under a single regulatory body.
- The law introduces new structuring options which were the main limitation of the previous legislation, such multiple investment compartments (ie Umbrella Funds), which allows the management of different pools of assets with distinct policies, with each pool of assets being ring-fenced through the set-up of sub-funds.
- Provides the ability to set up an AIF taking the contractual form of a Common Fund , a form commonly used in other jurisdictions, where investors participate as co-owners of the assets of the AIF.



- It furthermore allows the cross investment between sub-funds. A compartment of an AIF may invest in another compartment of the same AIF, if such possibility is provided for in its constitutional documentation, under the condition of certain defined investment restrictions.
- Provides the ability to set up an AIF marketed to Professional Investors and/or Well-Informed Investors. This type of AIF is comparable to the Specialised Investment Funds of Luxembourg, the Qualifying Investor Funds of Ireland and the Professional Investor Funds of Malta.
- It allows the public offering of shares of AIFs, in contrast to the position of the ICIS law, where only private placements were allowed. The framework for listing of securities issued by AIFs, in the Cyprus Stock Exchange is already established, something which increases liquidity, transparency, marketability and widens the potential investor base.
- The role of the depository is no longer reserved only for credit or banking institutions and maybe undertaken by other entities like Investment Firms and even Administrative (fiduciary) Firms under certain conditions.
- Instances where the assets are under €5m or investors are limited to 5, or the nature of the assets is not subject to custody (real estate, wind farms), i.e. non-financial instruments it is possible to apply for the exemption from the appointment of a custodian which significantly reduces costs.

Transitional rules for ICIS

The existing ICIS have the following alternatives options under the transitional rules of article 120 of the law. Established ICIS provided they wish to continue their operation under the provisions of the law, must proceed within 4 months (ie by 10 November 2014) from the enactment of the law to implement one of the following options provided under the law:

- a- submit to CySEC the prerequisite documentation in accordance to Part VI of the law (no new license is required) in order to continue their operation as an AIF with Limited Number of Persons,
or
- b- submit an application to CySEC for obtaining a license to operate as an AIF under Part II of the law (note: provided the AIF delegates its management to an AIFM, the AIF will simultaneously be subject to the AIFMD, accordingly),
or
- c- submit an application to CySEC to operate as an AIFM under the provisions of the AIFMD (law 56(I)/2013).

Additional requirements under the AIFM

Directive 2013

By 22 July 2014, which is the date the transitional period of one year ends, any fund managers managing Alternative Investment Funds (AIFs) with combined assets under management (AuM) not exceeding either (i) €100mn (including leverage), or (ii) € 500mn (for unlevered AIFs but with a lock-up period of five years), will not be required to be authorised.

These “smaller” AIFMs though are required to enter the Register kept by the CySEC. Registered AIFMs, while not subject to the Directive, will still be obliged to provide ongoing information to the CySEC.



Affected entities

Provided that the AuM thresholds described above are not met, the following entities are under the obligation to register:

- Investments Firms (CIFs) or credit institutions who managed ICIS or other AIFs.
- Self-managed ICIS
- Approved investment companies of CSE in case they are self-managed or their manager in case they are externally managed.
- Non-regulated Cyprus companies whose regular business is managing or more AIFs, whether or not such AIFs are established in the EU, and
- Cyprus AIFMs which exclusively manage AIFs that are only invested into by the AIFM or by its associated entities.

AIF as a “gateway for Cyprus passport”

Foreign investors, who make a collective investment of a minimum of €2.5mn for a fixed period of 3 years in a real estate or any other type of an AIF, will be granted a Cypriot citizenship.

Requirements are:

- Minimum 5 investors
- Each investor must invest a minimum of €2.5mn
- Additionally, each investor must make an investment of €500.000 in residential property
- The real estate (or other type) of AIF must invest in real estate (or other qualifying assets under the naturalization rules) in Cyprus

PLEASE FEEL FREE TO CONTACT US WITH ANY QUESTIONS OR QUERIES.

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