

CYPRUS FOR FUNDS







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CYPRUS: Solutions in a Changing Fund Industry

THE EU ALTERNATIVE INVESTMENT FUND MANAGERS DIRECTIVE (AIFMD=DIRECTIVE 2011/61/EU) AND THE ROLE CYPRUS CAN PLAY

The AIFMD will offer to EU based managers of EU hedge funds, private equity funds, real estate funds and other non-UCITS funds (in aggregate: Alternative Investment Funds=AIFs), the possibility to manage and market such EU AIFs to professional investors throughout the EU by means of a standardised electronic notification procedure (passport regime). This way they will not have to apply for approval at each EU member state separately, as an exchange for the regulation brought with the AIFMD. On the contrary, EU based managers of non-EU AIFs will not be granted passport regime at least not until 2015 although having to get authorised under and almost fully comply with the AIFMD. Even in this case the granting of passport regime will be subject to more onerous conditions than those applicable to EU based managers of EU AIFs. As a result, EU based managers managing non-EU AIFs will consider relocating their AIFs to the EU, in order to have the same accessibility as EU based managers of EU AIFs regarding management and marketing of their AIFs within the EU.

At the same time non-EU based managers of EU AIFs, apart from not being granted passport regime until 2015, will have to rely on political decisions, in order to be able to market their EU AIFs in the EU, even subject to EU member state-by-member state approval. The reason is that co-operation agreements need to be in place between (i) the competent authorities of the country of the non-EU based manager (ii) the competent authorities of EU member state of the EU AIF and (iii) the competent

authorities of each EU member state where such AIF is distributed. Those cooperation agreements comprise exchange of information in regulatory and tax matters, implying the necessity of a political negotiation procedure. A passport regime may also be introduced for non-EU based managers of EU AIFs from 2015; yet it will be subject to more onerous conditions than those applicable to EU based managers of EU AIFs. As a result non-EU based managers will also consider relocating themselves to the EU, in order to obtain market accessibility without depending on multilateral political decisions that exceed their decision-making potential.

In this new regulatory landscape emerging, Cyprus can offer an attractive solution for those managers, who may consider relocating either themselves or their AIFs to the EU. The reason is that Cyprus has:

- Submitted since April 2012 a draft Law transposing the AIFMD into Cyprus Law and is currently working on the implementing measures in alignment with the finalisation of the relevant EU implementing Acts and policy advice
- A 10% taxation applicable to managers of AIFs, which is the lowest in the EU
- Avail of the Depositary localisation exemption provided under the AIFMD. Thus, Cyprus offers the possibility to managers intending to establish their AIFs in Cyprus, to appoint the Depositary elsewhere in the EU until 2017
- Adopted a bespoke Depositary approach allowing lawyers and fiduciary services providers to act in Cyprus as Depositaries of Cyprus private equity and real estate funds. To this end, Cyprus has submitted a further draft Law regulating the exercise of the profession of fiduciary services providers



- Provided in its draft Law transposing the AIFMD that a manager, if authorised in Cyprus, may also (i) provide UCITS management (with cross-reference of documents) and marketing by means of passport regime and (ii) MiFID services (e.g. Individual portfolio management, investment advice and reception and transmission of orders) by means of passport regime
- Set the minimum capital requirements for managers authorised in Cyprus at the Paneuropean minimum of 125.000 EUR
- Provided in its draft Law transposing the AIFMD that in case of internal valuation of AIFs, external audit of the valuation procedures shall take place on case-by-case basis. This way no general obligation of submitting internal valuation procedures to external audit is imposed
- The reputation of a cost-effective jurisdiction, a fact that will offer to managers re-locating to Cyprus the possibility to demonstrate both presence and substance as required under the AIFMD.

UCITS IV in Cyprus

On June 2012 the Cyprus Law transposing the EU UCITS IV Directive (UCITS IV= Directive 2009/65/EC) has been voted (Law of 2012). The competent authority for the authorisation and supervision of UCITS and of their management companies is the Cyprus Securities and Exchange Commission (CySEC). The Law of 2012 offers to Cyprus authorised UCITS management companies:

- The advantage to manage and market UCITS throughout the EU by means of passport regime, while being taxed at 10%. Hence, a Cyprus authorised UCITS management company can provide its investors with UCITS vehicles, authorised and supervised in main EU UCITS domiciles; at the same time such a management

company will be able to consolidate its operations in the EU jurisdiction with one of the lowest corporate tax rates, which also imposes all UCITS IV internal organisation, prudential regulation and supervision requirements regarding management companies (e.g. administrative and accounting procedures, internal control mechanisms, conflicts of interests, risk management and reporting)

- The possibility to set-up their Cyprus UCITS by means of internationally recognised UCITS legal forms, i.e. Common Fund and Variable Capital Investment Company
- The possibility to extend the scope of their license, in order to also perform (i) MiFID services (e.g. individual portfolio management and investment advice) and (ii) management and marketing of AIFs (through cross-reference of documents) both by means of passport regime
- The advantage to launch in Cyprus segregated portfolio Umbrella UCITS with internal investment possibility. This way Funds of Funds investment policy can be pursued within the same entity (UCITS umbrella).

Further, Cyprus has long standing relationships with wealthy countries from the Middle East, Asia and the CIS region. It can thus act as the most accessible bridge for the managers of these countries to enter the UCITS IV universe. This way they can bring their asset management value to new investors through the globally recognised UCITS brand. In addition, such managers can establish operational and investment links with the main EU UCITS domiciles through Master-Feeder structures and act as a distribution channel through Cyprus for their regions.



CYPRUS: The location of choice for the domiciliation and administration of Investment Funds (UCITS & AIFs)

FURTHER FEATURES OF CYPRUS AS A JURISDICTION FOR INVESTMENT FUNDS:

Cyprus has completed over the past 10 years a programme of restructuring all its financial sector legislation in line with international best practice. It has also put a simplified, effective and transparent tax system in place which is fully EU, OECD, FATF and FSF compliant.

Experienced and recognised service providers are established in Cyprus including custodian banks and central administration companies capable of serving a wide range of investment funds (UCITS and AIFs) and providing operational support for all EU and non-EU distribution countries at competitive rates. Other dedicated service providers support investment funds (UCITS and AIFs) throughout their entire life-cycle: regulatory approval, listing on the Cyprus Stock Exchange, order routing, registration, clearing and settlement. The technology and expertise supporting the Cyprus' fund industry constantly evolve to accommodate new products and the growing numbers of Cyprus investment funds being set-up. Once all the necessary documentation is in place, setting-up an investment fund in Cyprus is a relatively quick process in close exchange with the competent authorities.

Cyprus' legal framework, based on English Law, is designed to attract foreign investment funds and investment fund managers in alignment with following principles:

- Provisions for the set-up, licensing and marketing of all types of investment funds and for providers of investment fund and other financial services

- Introduction of modern banking laws in accordance with best practices of EU banking regulations and supervision requirements
- Set-up and recognition of trusts and alignment of Cyprus' Companies Law with the respective EU Law provisions; in particular, clear rules for mergers, divisions, disclosure of financial statements, regulation of branches and other related matters have been introduced
- Adoption and application of EU and OECD standards in respect of prevention of money laundering and insider dealing with the Financial Intelligence Unit (FIU) acting as the Unit for Combating Money Laundering (MOKAS)
- Consolidation of the various provisions on professional secrecy which provide the necessary reassurance to foreign investors; yet, the scope and the application of such provisions does not obstruct supervision of fiscal and regulatory compliance and investigations into financial crimes. More than that it does not obstruct international co-operation between authorities in relevant matters.

REGULATORY FRAMEWORK of Cyprus AIFs

Cyprus AIFs are regulated and supervised under the International Collective Investment Schemes Law of 1999 (ICIS Law). The ICIS Law provides for Cyprus AIFs targeting the general public and experienced investors but also for private schemes. Due to the private character of the latter, which is tailored to



relationships of personal trust between the manager of the private ICIS and investors, a private ICIS is subject to minimal regulation and investment restrictions; regulatory scrutiny comprises the repute, expertise and experience of the manager. All investment policies are possible through ICIS, whereas the investment policies mostly pursued consist of private equity, real estate, energy and shipping.

ICIS are approved and supervised by the Central Bank of Cyprus (CBC) and can be set-up as a Variable Capital Investment Company, a Fixed Capital Investment Company, a Unit Trust or a Limited Partnership. In addition, numerous master-feeder structures are possible with many jurisdictions in order to attract new investor pools and benefit from specific regulatory and fiscal advantages.

LISTING ON THE CYPRUS STOCK EXCHANGE (CSE)

The Cyprus Stock Exchange (CSE) is a widely recognised Stock Exchange and since 2009 the CSE has been an officially recognised stock exchange for tax purposes, by the UK's tax authority HM Revenue and Customs, under the Articles 1005(3)(a) and (3)(b) of the Income Tax Act 2007. Additionally, the CSE has recently been designated as a recognised stock exchange, for investment purposes, from the Federal Financial Markets Service (FFMS) of Russia. The CSE has a modern infrastructure and operates in accordance with the Cyprus Stock Exchange (CSE) Law and Regulations aligned with the relevant EU Directives. CSE is regarded as a favourable choice for investment funds, as well as for their managers, custodians and administrators since, other than the recognition they favour, they can take advantage of the additional benefits CSE offers. Such benefits include the CSE's competitive pricing policy and its trustworthiness, as inferred by the transparency

requirements set out in the CSE Law, mostly regarding the dissemination of NAV and periodical financial reporting. Furthermore, investment funds can be listed on the "Investment Funds Market" of the CSE, via a quick and simplified procedure, as defined in the CSE Law. More information about listing investment funds on CSE are available in the special edition "Mutual Funds" published by the Cyprus Stock Exchange (www.cse.com.cy).

RE-DOMICILIATION OF UCITS AND AIFS TO CYPRUS

There are many competitive advantages to be achieved by re-domiciling existing investment funds and their management in the right country including reputation, tax efficiency, cost competitiveness, the availability of an experienced workforce and, most importantly, a business oriented regulatory environment. In addition, a flow of business towards the EU is expected pursuant to the AIFMD.

In order to anticipate and facilitate the expected flow of business, Cyprus offers a simple, straightforward process for the re-domiciliation of UCITS and of their management companies as well as of AIFs to Cyprus:

- As to the re-domiciliation of UCITS management companies and of UCITS of corporate form, CySEC's approval is required. CySEC's approval, following consultation with the authorities of the applicant, ensures that re-domiciliation does not take place for reasons of avoidance of legal requirements. A relevant application has to be submitted to this effect evidencing among other the applicant's good standing, its home state regulator's approval and clearance, the relevant re-domiciliation corporate decision and information



destined for investors, in order to ensure the exercise of their rights

- As to the re-domiciliation of UCITS of contractual form to Cyprus, CySEC's approval is required for the same reasons as explained directly above. A relevant application has to be submitted with similar content to that of the application for re-domiciliation of UCITS management companies or of UCITS of corporate form to Cyprus
- As to the re-domiciliation of AIFs to Cyprus, the Cyprus Companies' Law provisions on the re-domiciliation of companies apply to re-domiciling corporate AIFs. Regarding AIFs bearing the form of a limited partnership or trust, a case-by-case scrutiny shall apply. Regarding the re-domiciliation of managers of AIFs to Cyprus special provisions are currently elaborated within the framework of transposing the AIFMD into Cyprus Law.





CYPRUS: The location of choice for Asset Management Companies

COLLECTIVE PORTFOLIO (INVESTMENT FUND) MANAGEMENT

The UCITS IV Directive and the AIFMD provide collective portfolio, i.e. investment fund, managers, either of UCITS or of AIFs, with the possibility to passport their fund management and marketing services throughout the EU and to offer both UCITS and AIFs' management and marketing through a single entity (cross-authorisation with cross-reference of documents) by means of passport regime. Such a business concept may prove even more attractive from Cyprus, since it will be combined with Cyprus' EU lowest corporate tax rate and its cost-effectiveness. There are some common features regarding the constitution and functioning of a Cyprus UCITS management company and of a Cyprus manager of AIFs, which are presented below:

- 125.000 EUR minimum capital requirements
- 2 persons of sufficient repute and experience effectively conducting the applicant's business
- Internal operations' manual addressing among other investment decision-making issues, conflicts of interest, internal control and governance issues, the role of committees, client relationship management and complaint handling, risk management, supervision of delegates and valuation issues
- Cross-authorisation via cross-reference of documents
- Provision of MiFID services through passport regime in addition to collective portfolio management
- 10% corporate tax rate
- Delegation of tasks possible (upper limit: Letter-box entity).

DISCRETIONARY PORTFOLIO MANAGEMENT ON A CLIENT-BY-CLIENT BASIS

Asset management companies, providing portfolio management on a client-by-client basis (individual portfolio management), need prior authorisation as Cyprus Investment Firms (CIFs), when providing such service to third parties on a professional basis. The relevant Law, transposing the EU MiFID Directive (Directive 2004/39/EC) into Cyprus Law, is the Investment Services and Activities and Regulated Markets Law of 2007- Law 144(I)/2007 (the CIF Law). The procedure for obtaining authorisation as a CIF, in order to provide individual portfolio management, consists of the submission of a relevant application and of complying with operating and organisational requirements on an ongoing basis. As an exchange, a CIF is granted passport regime for providing individual portfolio management throughout the EU. Further a CIF can provide portfolio management in third countries, pursuant to approval by the relevant third country regulator. The reason is that regulation pursuant to EU Law, as it is the case with MiFID, is considered to be adequate by many third country regulators, enabling the extension of a CIF's business also outside the EU.

Capital requirements: The initial capital for providing individual portfolio management, to be paid upon application submission, must be at least 200.000 EUR, whereas the CIF must have at all times own funds more than or equal to the sum of its capital and never less than 200.000 EUR. A reduction of the issued capital is subject to prior approval by CySEC.

Authorisation procedure: The relevant application form has to be submitted to CySEC in writing and to be signed by the members of the Board of Directors (B.o.D.)



of the applicant. The members of the B.o.D. of the applicant remain responsible for the accuracy, correctness and completeness of the submitted information and documentation by confirming that they have exercised due diligence upon submitting it. The B.o.D. of the applicant must authorise by resolution a specific person or persons to carry out the communication with CySEC during the period of assessment of the application (promoter(s) of the application). The written application to CySEC should include among other information on the internal operations' manual (providing, among other, for the applicant's computer network and electronic infrastructure, for rules governing personal transactions of managers, of employees and of tied agents and for managing conflicts of interest), a business plan, information on the organisational structure as well as information on the identity of qualifying shareholders (persons owning >10% of capital or of voting rights directly or indirectly), and the amount of the respective qualifying shareholdings. Further the CIF's risk management policy and procedures as well as the CIF's procedures on prevention of money laundering and terrorism financing have to be submitted. Finally a certification by the applicant that it possesses or will possess the funds required for the initial capital has also to be submitted.

An application charge of 3.000 EUR plus 1.000 EUR for the service of individual portfolio management must be paid. The decision of CySEC must take place within 6 months from the submission of a duly completed application.

A CIF has to be a member of the Investment Compensation Fund for Clients of CIFs (Investor Compensation Scheme).

The re-domiciliation of an Investment Firm from another EU member state to Cyprus is also possible.

Operating conditions: A CIF's operating conditions will vary depending on the nature, scale and complexity of the CIF's business. The management of a CIF must be effectively conducted by two persons of sufficiently good repute and experience, while one of them has to be Cyprus resident. As to the members of the B.o.D., the majority has to be Cyprus residents. The head office of the CIF has to be established in Cyprus and has to be fully fledged with full-time employed personnel, whereas outsourcing is possible. In order for a person employed by a CIF to be able to perform the individual portfolio management function one must have successfully passed the relevant exams provided under the CIF Law. The exams are held at least annually and successful candidates are registered in the public register held by CySEC. Within four months from the end of the CIF's financial year, audited financial accounts must be submitted together with a signed copy of the independent auditor's report. An annual supervision fee must be paid.



TAXATION IN CYPRUS

Cyprus is increasingly becoming an EU destination of choice for Fund managers and management companies seeking new locations for the following reasons:

- A 35% cap on personal income; for employees with remuneration exceeding 100.000 EUR that take on employment after 01.01.2012, 50% of remuneration is exempt for a period of 5 years
- A 10% cap on corporate tax, one of the lowest in the European Union
- Corporate tax can be reduced to 0% since gains from trading in securities are tax exempt
- Flexible regulation and light supervision
- Substantially lower operating costs than comparable EU fund centres.

The Cyprus tax laws are designed to support the development of the country as an international financial and business centre, to promote international investment and to support the development of financial services.

In this respect Cyprus Tax Laws have been amended to provide further tax incentives for the set up and operation of funds. Such amendments provide that:

- Interest received by open and closed end collective investment schemes is considered 'active' interest income and taxed only at 10% corporate tax on a net basis
- There is no minimum participation on inbound dividends to qualify for tax exemption

- The liquidation of open- and closed end collective schemes is not taxable if the unit holders are not tax residents of Cyprus

- To the extent where Cypriot tax resident investors have invested in a fund that does not follow a distribution policy, there is a 3% defence tax on deemed dividend distribution on 70% of the collective investment scheme accounting profits within a two-year period from the tax year to which the profits relate, pro-rated to those profits attributed to the Cypriot investors.

Adding to the above, Cyprus has a wide and beneficial Double-Tax Treaty (DTT) network which creates a competitive tax and corporate environment compared with other jurisdictions. There are currently more than 45 DTTs in force with 38 others being negotiated. An extensive double tax treaty network can provide substantial attractions as funds can collect dividend and interest from Cypriot treaty partners at the withholding tax rates provided under the DTT. Under most treaties, profit generated from the sale of securities is only subject to tax in Cyprus and hence tax exempt.

Fund Management Services:

Management Companies, either of UCITS or of AIFs, are subject to a unified corporate tax of 10% . There is no withholding tax on payments of dividend and interest to non-resident shareholders.

Fund management services which are provided either to Cyprus UCITS or Cyprus AIFs, i.e. ICIS of all types, are exempt from VAT.





OUR VALUE PROPOSITION

Although Cyprus is continuously evolving as a financial centre, it already has everything in place to make it an excellent base for the investment funds' business and for the professionals of the sector. The strategic location of the island at the crossroads of three continents and at the borders of Europe, facilitates partnerships serving as the springboard for investments in Europe, the MENA region, Asia and the CIS countries.

The country's location is further enhanced by its connectivity to the busy trade routes to all major cities of Europe, the Middle East and the Far East. Cyprus' two international airports offer over 1.100 scheduled flights per week served by 32 international airlines or by a selection of private and corporate jet operators.

In a globalised economy where multinational companies are pressed to maintain and increase quality while cutting costs to meet clients' demands, Cyprus provides a complete value proposition with its:

- **EU and Eurozone membership**
- **Highly educated, qualified and multilingual talent:** Since 2005, Cyprus is in the top ten countries within the EU with the lowest pupil per teacher ratio with 18 pupils per teacher. Further, 90% of Cyprus' accountants possess one of the two most important UK professional qualifications.
- **EU lowest corporate tax rate and extensive double tax treaties network:** Cyprus is among the countries with the lowest corporate tax in Europe of 10%. Dividend income, profits from overseas permanent establishments and profits from the sale and disposal of securities (including participations in investment funds) are exempt from tax. There is no withholding tax on dividends, interest and royalties paid from Cyprus. Cyprus has concluded double tax treaties with over 45 countries

- **Wide and efficient network of legal, accounting and banking services:** International accounting firms and banks have a long term presence in Cyprus. Cyprus has a robust legal framework, which has evolved from Common Law and is, in the meantime, fully aligned with the provisions of EU Law and the rights and obligations arising thereof
- **Advance telecommunications and easy travel:** Two international airports, state-of-the-art high-speed internet and mobile telecommunications. Considerable investment has been made into transforming the island into a telecommunications' hub for the region. Cyprus is connected to a number of advanced technology submarine cables providing excellent connectivity to Europe, the Middle East and other Asian financial centres. In addition, seven satellite earth stations provide further satellite telecommunications' connectivity. This way it is easy for investment fund management companies and financial services firms to re-locate here and be connected globally through an advanced and reliable telecommunications' network
- **Enviably quality of life:** For investment funds' management companies and people seeking high quality business services, low tax and a high quality of life, Cyprus is a great place to live and work. Cyprus has fabulous weather, beautiful nature, low stress, art and cultural events, safety, gastronomy and wine and above all, hospitable people.



THE CYPRUS INVESTMENT PROMOTION AGENCY (CIPA)

Established with a decision of the Council of Ministers in 2007, the Cyprus Investment Promotion Agency (CIPA) is a registered non-profit company limited by guarantee and fully funded by the Government of Cyprus.

CIPA has a threefold mandate:

- To promote Cyprus as an attractive international investment centre in key priority growth sectors
- To advocate for reform, when required, in order to improve the regulatory and business environment and infrastructure in Cyprus
- To provide investor support with after-sales care and further development services.

CIPA has established its membership with the World Association of Investment Promotion Agencies (WAIPA) and ANIMA, i.e. the Mediterranean countries' Investment Promotion Agencies Foundation. Memberships in these and other fora provide a platform for best practices sharing and learning in the area of Foreign Direct Investments (FDI) promotion and implementation. As a result of the increased interest by international investment fund promoters to domicile their vehicles and operations in Cyprus, CIPA has set-up an Expert Fund Industry Committee (the Committee). The Committee shall further develop the Cyprus' investment funds industry, which already has a lot to offer such as the presence of a comprehensive legal framework, cost competitiveness and a professional business environment. The Committee represents the sector in economic missions organised by the Government of Cyprus around the world and participates in representative events of the global investment funds' industry.

An important objective of the Committee is to act as a channel of communication and to make representations to the Government of Cyprus and the competent authorities on legal and fiscal matters, which have an effect on the business and/or the interests of the investment funds' industry. The Committee operates as a working group by constantly reviewing and analysing developments worldwide as well as statutory and regulatory changes in Cyprus and the EU, in order to identify opportunities for the Cyprus investment funds' industry.

www.cipa.org.cy



Severis Bldg, 9 Makarios III ave., 4th Floor, Lefkosia 1065, Cyprus
P.O.Box 27032, Lefkosia 1641, Cyprus
Tel.: +357 22 44 11 33, Fax: +357 22 44 11 34
E-mail: info@cipa.org.cy