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Alternative Investment Funds (AIF)

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The Alternative Investment Funds Law 2014, has enabled Cyprus to develop the fund industry and align it to the European directive of Alternative Investments Funds ("AIF"), thus strengthening the fund regime in Cyprus by creating an attractive, competitive, trustworthy and prestigious industry for the creation of investment activities. The new developments in the Law have enabled Cyprus to offer an attractive regime for the creation of funds combining flexibility, effective regulations and incentive to investors since the creation of AIFs in Cyprus provide both cost benefits in terms of its incorporation as well as tax benefits enjoying the 12.5% corporate tax rate.

The AIF Law provides the possibility for a collective investment to take place raising capital from a number of investors with the aim of investing this capital in accordance with a defined policy for the benefit of the investors, thus enabling them in case of a successful management of the fund to receive dividends. Assets can also form part of the Fund, following an asset valuation. The valuation procedures must ensure that assets are valued and that the net assets value per unit is calculated at least once a year. The valuation will be conducted by an independent external valuer.

The formation of a fund can take place following an application to the Cyprus Securities and Exchange Commission (CySec) that is the regulatory body for AIFs. Following the application to CySec, and subject to the fulfilment of all the requirements for the formation of the Fund, CySec will proceed with the registration of the fund.

The AIF Law further provides the opportunity for the creation of two types of AIFs providing for a wider use of the funds and meeting the needs of all kind of investors.

[I] AIFs available to the public with unlimited number of investors.

- This type of AIF can be marketed either to well-informed/professional investors or to retail investors.
- The management of AIFs can be either self-managed or managed by a management company, depending on the value of the assets.
- This type of AIF can be listed, and provide for the possibility to make public offerings of shares/units.
- Umbrella Funds can be created where an AIF can manage multiple investment compartments where each compartment is managed in a different way, involving different investment policies with separate assets and liabilities.
- Subject to minimum capital requirements equal to EUR 125.000 or EUR 300.000 in the case of self-managed funds.
- Reporting requirements include half yearly report, and annual report, which includes information of the fund and its activities as well as the audited financial statements.
- Subject to certain investment restrictions for the purpose of risk spreading and ensuring liquidity.

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[II] Alternative investment funds with limited amount of participants.

This is the most common form of AIF offering a flexible arrangement of AIFs. Under this arrangement investors may invest their money in the fund for a specific purpose or investment strategy which will be managed by experience and professional managers, and in the case of successful management derive profits from such investments.

- The maximum number of investors is limited to 75.
- The shares can be marked only to professional or well-informed investors.
- Reporting requirements include an annual report which has to be reviewed by independent auditors, including information in respect of the fund and its activities.
- No investment restrictions are imposed on this type of AIF.
- Umbrella funds can be created under this type of fund, where a Fund can manage multiple investment compartments, however in this case the limitation on the number of investors applies to the whole scheme.
- There is no minimum initial capital requirements.

[III] Experts and other parties required for the formation of an AIF.

For the creation of an AIF, parties having the knowledge and experience to manage the Fund have to be appointed and subsequently approved by CySec. AIFs can be managed by either external or internal managers that have to be licensed by CySec in order to provide such services. For the formation of AIF the following parties have to be appointed:

Auditors: Professional Auditors have to be appointed, that will be responsible for the annual audits of the Fund.

Administrator: is responsible for keeping the fund's books and records, accounting, compliance, reporting filling, share issue and other services.

Custodian: responsible for safekeeping and cash monitoring. The custodian can be a credit institution or an investment company or another institution eligible to be a custodian.

Directors: are parties with the experience and knowledge necessary to be responsible for the management and control of the fund. Their knowledge has to be connected with the subject matter of the Fund.

Manager: means the persons that actually manage the operations of the AIFM, undertaking the operation of its business activity. An AIF can be managed by an internal or an external manager having the license to act as such.

Investors (unit-holders): the holders of the shares in the fund.

Well-informed investor: (a) the investor confirms in writing that he is a well-informed investor and that he is aware of the risks related with the proposed investment; and (b) either his investment in the AIF amounts, at least, to €125 000, or he is assessed as a well-informed investor, either by a credit institution that falls within the scope of the Banking Laws or by an Investment Firm, or by a UCITS management company.

Legal Advisors: lawyers draft various documentation such as the Memorandum and the Articles of Association and attend to the legal formation, licensing and regulatory compliance for AIFs both upon formation and afterwards.

[IV] Key benefits of an AIF.

- An AIF enjoys similar taxation benefit of a Cyprus tax resident company being one of the lowest corporate income tax rates in the EU at 12.5%.
- Cyprus is an EU member state compliant with EU laws and regulations.
- Profits received from redemption of units would be excluded from tax.
- Dividends distributed to Cyprus tax residents are subject to 3% Social Defence Contribution (compared to 17% that normally applies).
- Benefits from Cyprus network of Double tax treaties with more than 45 countries.
- Exception from tax on gains from trading in securities.
- Foreign dividends will usually be exempt from corporate income tax in Cyprus.

Please do not hesitate to contact us for a consultation on the above matter.

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