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Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19, 111, 19 ta' Lulju, 2013
Taqsima B

L.N. 214 of 2013

INVESTMENT SERVICES ACT (CAP. 370)

Investment Services Act (Alternative Investment Fund Manager) (Third Country) (Amendment) Regulations, 2013

IN exercise of the powers conferred by article 12 of the Investment Services Act, the Minister for Finance, acting on the advice of the Malta Financial Services Authority, has made the following regulations:-

Citation and commencement.

1. (1) The title of these regulations is the Investment Services Act (Alternative Investment Fund Manager) (Third Country) (Amendment) Regulations, 2013, and these shall be read and construed as one with the Investment Services Act (Alternative Investment Fund Manager) (Third Country) Regulations, hereinafter referred to as "the principal regulations". S.L. 370.24

(2) These regulations shall come into force on the 22nd July, 2013.

Amends regulation 2 of the principal regulations.

2. In sub-regulation (1) of regulation 2 of the principal regulations, the definition "the UCITS Directive" shall be substituted by the following:

" "the UCITS Directive" means Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast), as amended from time to time, and includes any implementing measures that have been or may be issued thereunder.".

Amends various regulations of the principal regulations.

3. In the proviso to sub-regulation (1) of regulation 5, the proviso to sub-regulation (1) of regulation 8, the proviso to sub-regulation (1) of regulation 11, the proviso to sub-regulation (1) of regulation 13, the proviso to sub-regulation (1) of regulation 16, the proviso to sub-regulation (1) of regulation 17, and sub-regulation (1) of regulation 22 of the principal regulations, for the words "without prejudice to regulation 26", there shall be substituted the words "without prejudice to regulation 30".

Amends regulation 7 of the principal regulations.

4. Regulation 7 of the principal regulations shall be amended as follows:

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(a) in the heading immediately preceding regulation 7, for the words "Maltese AIFMs marketing", there shall be substituted the words "Maltese and European AIFMs marketing";

(b) the marginal note thereof shall be substituted by the following:

"Conditions for the marketing by a Maltese or European AIFM of third country AIFs in Malta.";

(c) in sub-regulation (1) thereof:

(i) for the words "Without prejudice to regulation 26, a Maltese AIFM may market units", there shall be substituted the words "Without prejudice to regulation 30, a Maltese or European AIFM";

(ii) for the words "notification prescribed in regulation 5", there shall be substituted the words "notification prescribed in regulations 5 and 8 respectively";

(iii) in paragraph (a) thereof:

- for the words "the Maltese AIFM complies with all the requirements", there shall be substituted the words "the Maltese or European AIFM complies with all the requirements";

- for the words "The Maltese AIFM shall however ensure that one or more entities are appointed to carry out the duties referred to in Article 21(7), (8) and (9) of the AIFM Directive and the Maltese AIFM shall not perform those functions. The Maltese AIFM shall provide the competent authority", there shall be substituted the words "The Maltese or European AIFM shall however ensure that one or more entities are appointed to carry out the duties referred to in Article 21(7), (8) and (9) of the AIFM Directive and the Maltese or European AIFM shall not perform those functions. The Maltese of European AIFM shall provide the competent authority"; and

(iv) in paragraph (b) thereof, for the words "in place between the competent authority and the supervisory

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authorities of the third country", there shall be substituted the words "in place between the competent authority, in the case of a Maltese AIFM, or the European regulatory authority, in case of a European AIFM, and the supervisory authorities of the third country";

(d) in sub-regulation (2) thereof, for the words "Where a Maltese AIFM intends to market units or shares", there shall be substituted the words "Where a Maltese or European AIFM intends to market units or shares"; and

(e) in sub-regulation (3) thereof, for the words "may impose stricter rules on the Maltese AIFM", there shall be substituted the words "may impose stricter rules in the Maltese or European AIFM".

Amends regulation 22 of the principal regulations.

5. In the first proviso to sub-regulation (1) of regulation 22 of the principal regulations, for the words "Provided that at least two the following conditions shall be satisfied:", there shall be substituted the words "Provided that at least the following conditions shall be satisfied:".

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