

Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 19,925, 22 ta' Diċembru, 2017

Taqsimha B

L.N. 404 of 2017

**INVESTMENT SERVICES ACT
(CAP. 370)**

**Investment Services Act (Alternative Investment Fund Manager)
(Passport) (Amendment) Regulations, 2017**

IN EXERCISE of the powers conferred by article 12 of the Investment Services Act, the Minister responsible for the regulation of financial services, acting on the advice of the Malta Financial Services Authority, has made the following regulations:-

1. (1) The title of these regulations is the Investment Services Act (Alternative Investment Fund Manager) (Passport) (Amendment) Regulations, 2017 and these regulations shall be read and construed as one with the Investment Services Act (Alternative Investment Fund Manager) (Passport) Regulations, hereinafter referred to as "the principal regulations".

Citation and commencement.
S.L. 370.22.

(2) The purpose of these regulations is to transpose the provisions of Article 92 of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments, and they shall be interpreted and applied accordingly.

(3) These regulations shall come into force on the 3rd January 2018.

2. The definition "European AIFM host Member State or EEA State" in regulation 2(1) of the principal regulations shall be amended as follows:

Amends regulation 2 of the principal regulations.

(a) in sub-paragraph (a) thereof for the words "AIFs; or" there shall be substituted the word "AIFs";

(b) in sub-paragraph (b) thereof, for the words "a European AIF;" there shall be substituted the words "a European AIF; or"; and

(c) immediately following sub-paragraph (b) thereof, there shall be inserted the following new sub-paragraph:

"(c) a Member State or EEA State, other than the home Member State or EEA State, in which a European AIFM provides the services referred to in Article 6(4) of the AIFM Directive."

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Amends
regulation 3 of
the principal
regulations.

3. Regulation 3 of the principal regulations shall be amended as follows:

(a) for sub-regulation (1) thereof, there shall be substituted the following:

"(1) A Maltese AIFM may:

(a) manage a European AIF directly, provided the Maltese AIFM is authorised to manage that type of AIF; and

(b) provide directly in another Member State or EEA State the services referred to in Article 6(4) of the AIFM Directive for which it has been authorised."; and

(b) in sub-regulation (2) thereof, for the words "manage a European AIF" there shall be substituted the words "directly provide the activities and services referred to in sub-regulation (1)".

Amends
regulation 4 of
the principal
regulations.

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

(a) for sub-regulation (1) thereof, there shall be substituted the following:

"(1) A Maltese AIFM may:

(a) manage a European AIF through the establishment of a branch, provided the Maltese AIFM is authorised to manage that type of AIF; and

(b) provide in another Member State or EEA State through the establishment of a branch the services referred to in Article 6 (4) of the AIFM Directive for which it has been authorised."; and

(b) sub-regulation (2) thereof, shall be amended as follows:

(i) for the words "to manage a European AIF" there shall be substituted the words "to provide the activities and services referred to in sub-regulation (1)";

(ii) in sub-paragraph (a) of sub-regulation (2), immediately after the words "to establish a branch" there shall be inserted the words "and, or provide the services

referred to in sub-regulation (1); and";

(iii) in sub-paragraph (b), the word "and" shall be deleted and there shall be substituted for it the term "and, or"; and

(iv) sub-paragraphs (c) to (e) shall thereafter be deleted.

5. Regulation 6 of the principal regulations shall be amended as follows:

Amends
regulation 6 of
the principal
regulations.

(a) for sub-regulation (1) thereof, there shall be substituted the following:

"(1) A European AIFM may:

(a) manage a Maltese AIF directly in Malta, provided the European AIFM is authorised to manage that type of AIF; and

(b) provide directly in Malta the services referred to in Article 6(4) of the AIFM Directive for which it has been authorised:

Provided that the European AIFM shall be exempt from the provisions of article 3 of the Act.";

(b) in sub-regulation (2) thereof, for the words "manage Maltese AIFs" there shall be substituted the words "provide the activities and services referred to in sub-regulation (1)";

(c) in sub-paragraph (a) of sub-regulation (2) thereof, for the words "manage AIFs directly" there shall be substituted the words "directly provide the activities and services referred to in sub-regulation (1)"; and

(d) in sub-paragraph (b) of sub-regulation (2) thereof, for the word "and" there shall be substituted the words "and, or".

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

Amends
regulation 7 of
the principal
regulations.

(a) for sub-regulation (1) thereof, there shall be substituted the following:

"(1) A European AIFM may:

(a) manage a Maltese AIF in Malta through the

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establishment of a branch, provided the European AIFM is authorised to manage that type of AIF; and

(b) provide in Malta through the establishment of a branch the services referred to in Article 6 (4) of the AIFM Directive for which it has been authorised:

Provided that the European AIFM shall be exempt from the provisions of article 3 of the Act.";

(b) in sub-regulation (2) thereof, for the words "manage a Maltese AIF" there shall be substituted the words "provide the activities and services referred to in sub-regulation (1)";

(c) in sub-paragraph (a) of sub-regulation (2) thereof, for the words "manage AIFs directly in Malta" there shall be substituted the words "provide the activities and services referred to in sub-regulation (1) in Malta through the establishment of a branch"; and

(d) in sub-paragraph (b) of sub-regulation (2) thereof, for the word "and" there shall be substituted the words "and, or".