Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 20,269, 24 ta' Settembru, 2019
Taqsima B

L.N. 244 of 2019

INVESTMENT SERVICES ACT (CAP. 370)

Investment Services Act (Alternative Investment Fund Manager) (Passport) (Amendment) Regulations, 2019

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:-

Citation and commencement.

1. (1) The title of these regulations is the Investment Services Act (Alternative Investment Fund Manager) (Passport) (Amendment) Regulations, 2019 and they shall be read and construed as one with the Investment Services Act (Alternative Investment Fund Manager) (Passport) Regulations, hereinafter referred as "the principal regulations".

S.L. 370.22

(2) These regulations, with the exception of regulation 2, and of regulation 9(4) in regulation 3, shall enter into force on such date as the Minister may by notice in the Gazette establish.

Amends regulation 2 of the principal regulations.

2. Sub-regulation (1) of regulation 2 of the principal regulations shall be amended as follows:

(a) immediately after the definition "marketing", there shall be added the following new definition:

" "no-deal Brexit date" means the date on which the United Kingdom leaves the European Union without a withdrawal deal;"; and

(b) immediately after the definition "the UCITS Directive", there shall be added the following new definitions:

" "UK Alternative Investment Fund Managers" or "UK AIFMs" means AIFMs that are authorised by the respective regulatory authorities of the United Kingdom within the meaning of Article 6 of AIFMD, that are exercising a European right to provide services in Malta on a cross border basis, but shall exclude the European right to establish a branch in Malta;

"United Kingdom" means the territories of England,

Scotland, Wales, Northern Ireland and, for the purposes of these regulations, shall also include Gibraltar.".

Adds new regulation to the principal regulations.

3. Immediately after regulation 8 of the principal regulations, there shall be added a new regulation 9 as follows:

"TEMPORARY PERMISSION REGIME FOR UK ALTERNATIVE INVESTMENT FUND MANAGERS PASSPORTING INTO MALTA THROUGH FREEDOM OF SERVICES

Temporary permission granted by the competent authority to UK alternative investment fund managers to continue servicing existing contracts with existing clients.

9. (1) Subject to the provisions of these regulations and provided the conditions stipulated in this regulation are satisfied, the competent authority shall grant a temporary permission to UK AIFMs allowing them to continue servicing existing contracts with existing clients. Such UK AIFMS shall for the purposes of these regulations continue to be treated as European AIFMs providing services in Malta.

(2) In order to avail themselves of the temporary permission regime provided for in this regulation, UK AIFMs must already be exercising a European right to provide services in Malta on a cross-border basis under these regulations, prior to the no-deal Brexit date.

(3) UK AIFMs which have been granted a temporary permission under this regulation shall only be permitted to service those contracts with clients that were entered into by not later than 30 September 2019.

(4) UK AIFMs wishing to avail themselves of the temporary permission regime are required to notify the competent authority on the appropriate form issued by the said competent authority, stating their intention to benefit from this regime. This form shall be submitted to the competent authority by not later than three weeks from the no-deal Brexit date.

(5) (a) The temporary permission granted under the temporary permission regime shall be valid until the 31 March 2020.

(b) UK AIFMs shall, until the 31 March 2020, be exempt from the provisions of article 3 of the Act provided that those UK alternative investment fund managers are in possession of a temporary permission by the competent authority.

(c) As from 1 April 2020, such UK AIFMs shall be treated as third country AIFMs in terms of the Investment Services Act (Alternative Investment Fund Manager) (Third Country) Regulations.".

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