Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 20,690, 27 ta' Awwissu, 2021
Taqsima B

L.N. 334 of 2021

INVESTMENT SERVICES ACT (CAP. 370)

Investment Services Act (Alternative Investment Fund Manager) (Passport) (Amendment) Regulations, 2021

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, scope and commencement. S.L. 370.22.

1. (1) The title of these regulations is the Investment Services Act (Alternative Investment Fund Manager) (Passport) (Amendment) Regulations, 2021, 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".

(2) The scope of these regulations is, in part, to transpose Article 2(5) of Directive (EU) 2019/1160 of the European Parliament and of the Council of 20 June 2019 amending Directives 2009/65/EC and 2011/61/EU with regard to cross-border distribution of collective investment undertakings.

(3) These regulations shall be deemed to have come into force on 2nd August 2021.

Amends regulation 3 of the principal regulations.

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

(a) in sub-regulation (7) thereof, for the words "without undue delay", there shall be substituted the words "within fifteen (15) working days of receipt of all the information referred to in sub-regulation (6)"; and

(b) in sub-regulation (8) thereof, immediately after the words "and any regulations issued thereunder", there shall be added the words "and shall notify accordingly the European regulatory authority of the Maltese AIFM host Member State or EEA State without undue delay.".

Amends regulation 4 of the principal regulations.

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

(a) in paragraph (b) of sub-regulation (2) thereof, the words ", or" shall be deleted;

(b) in sub-regulation (7) thereof, for the words "without undue delay", there shall be substituted the words "within fifteen (15) working days of receipt of all the information referred to in sub-regulation (6)"; and

(c) sub-regulation (8) thereof shall be amended as follows:

(i) for the words "or if an unplanned change has taken place pursuant to the which", there shall be substituted the words "or if an unplanned change has taken place pursuant to which"; and

(ii) immediately after the words "and any regulations issued thereunder", there shall be inserted the words "and shall notify accordingly the European regulatory authority of the host Member State or EEA State where the branch of the Maltese AIFM is established without undue delay.".

Amends regulation 6 of the principal regulations.

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

(a) in paragraph (b) of sub-regulation (2) thereof, the words ", or" shall be deleted; and

(b) immediately after sub-regulation (6) thereof, there shall be added the following new sub-regulation:

"(7) Where the European AIFM proceeds with the implementation of a planned change to any of the information communicated in accordance with sub-regulation (2), notwithstanding the notification received pursuant to the first and second sub-paragraphs of Article 33(6) of the AIFM Directive, or if an unplanned change has taken place pursuant to which the European AIFM's management of the Maltese AIF would no longer comply with the provisions of the AIFM Directive or the European AIFM otherwise would no longer comply with the provisions of the AIFM Directive, the competent authority shall receive notification from the European regulatory authority of the European AIFM's home Member State or EEA State without undue delay of the measures taken in terms of the third sub-paragraph of Article 33(6) of the AIFM Directive.".

5. Regulation 7 of the principal regulations shall be amended as follows: Amends regulation 7 of the principal regulations.

(a) in paragraph (b) of sub-regulation (2) thereof, the words ", or" shall be deleted; and

(b) immediately after sub-regulation (6) thereof, there shall be added the following new sub-regulation:

"(7) Where the European AIFM proceeds with the implementation of a planned change to any of the information communicated in accordance with sub-regulation (2), notwithstanding the notification received pursuant to the first and second sub-paragraphs of Article 33(6) of the AIFM Directive, or if an unplanned change has taken place pursuant to which the European AIFM's management of the Maltese AIF would no longer comply with the provisions of the AIFM Directive or the European AIFM otherwise would no longer comply with the provisions of the AIFM Directive, the competent authority shall receive notification from the European regulatory authority of the European AIFM's home Member State or EEA State without undue delay of the measures taken in terms of the third subparagraph of Article 33(6) of the AIFM Directive.".

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