Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 21,685, 10 ta' Lulju, 2026
Taqsima B

L.N. 185 of 2026

INVESTMENT SERVICES ACT
(CAP. 370)

Investment Services Act (Alternative Investment Fund Manager) (Third Country) (Amendment) Regulations, 2026

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 scope.

1. (1) The title of these regulations is the Investment Services Act (Alternative Investment Fund Manager) (Third Country) (Amendment) Regulations, 2026 and these regulations 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) The scope of these regulations is to transpose the relevant provisions of Article 1(14) to (18) of Directive (EU) 2024/927 of the European Parliament and of the Council of 13 March 2024 amending Directives 2011/61/EU and 2009/65/EC as regards delegation arrangements, liquidity risk management, supervisory reporting, the provision of depositary and custody services and loan origination by alternative investment funds.

General amendment to the principal regulations.

2. In the principal regulations the word "custodian", wherever it occurs, shall be substituted by the word "depositary".

Amends regulation 2 of the principal regulations.

3. In sub-regulation (1) of regulation 2 of the principal regulations, immediately after the definition "competent authority" there shall be added the following new definition:

" "Directive (EU) 2015/849" means Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 on the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC;".

Amends regulation 4 of the principal regulations.

3. Sub-regulation (3) of regulation 4 of the principal regulations shall be amended as follows:

(a) paragraph (b) thereof shall be substituted by the following new paragraph:

"(b) the country where the third country AIF is established is not identified as a high-risk third country in accordance with Article 9(2) of Directive (EU) 2015/849;";

(b) in paragraph (c) thereof the words "including any multilateral tax agreements." shall be substituted by the words "including any multilateral tax agreements, and such country is not mentioned in Annex I to the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes.".

Amends regulation 7 of the principal regulations.

4. Sub-regulation (1) of regulation 7 of the principal regulations shall be amended as follows:

(a) paragraph (c) thereof shall be substituted by the following new paragraph:

"(c) the country where the third country AIF is established is not identified as a high-risk third country in accordance with Article 9(2) of Directive (EU) 2015/849;";

(b) immediately after paragraph (c) thereof, as substituted, there shall be added the following new paragraph:

"(d) the country where the third country AIF is established has signed an agreement with Malta or with the competent authority, and with each other Member State or EEA State in which the units or shares of the third country AIF are intended to be marketed which fully complies with the standards stipulated in Article 26 of the OECD Model Tax Convention on Income and on Capital and ensures an effective exchange of information in tax matters, including any multilateral tax agreements, and such country is not mentioned in Annex I to the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes.".

Amends regulation 9 of the principal regulations.

5. Regulation 9 of the principal regulations shall be amended as follows:

(a) sub-regulation (20) thereof shall be amended as follows:

(i) paragraph (e) thereof shall be substituted by the following new paragraph:

"(e) the country where the third country AIFM is established is not identified as a high-risk third country in accordance with Article 9(2) of Directive (EU) 2015/849;";

(ii) in paragraph (f) thereof the words "including any multilateral tax agreements." shall be substituted by the words "including any multilateral tax agreements, and such country is not mentioned in Annex I to the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes;";

(b) immediately after sub-regulation (22) thereof there shall be added the following new sub-regulation:

"(22a) Where the country where the third country AIFM is established is identified as a high-risk third country in accordance with Article 9(2) of Directive (EU) 2015/849, as referred to in sub-regulation (20)(e), or is added to Annex I to the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes, as referred to in sub-regulation (20)(f), after the time of authorisation of the third country AIFM, such third country AIFM shall, within an appropriate period, take such measures as are necessary to rectify the situation in respect of the AIFs that it manages, taking due account of the interests of investors, provided that such period shall not be longer than two (2) years.".

6. Sub-regulation (2) of regulation 13 of the principal regulations shall be amended as follows:

Amends regulation 13 of the principal regulations.

(a) paragraph (b) thereof shall be substituted by the following new paragraph:

"(b) the country where the third country AIF is established is not identified as a high-risk third country in accordance with Article 9(2) of Directive (EU) 2015/849;";

(b) in paragraph (c) thereof the words "including any multilateral tax agreements." shall be substituted by the words "including any multilateral tax agreements, and such country is not mentioned in Annex I to the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes;".

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Amends regulation 22 of the principal regulations.

7. The proviso to sub-regulation (1) of regulation 22 of the principal regulations shall be amended as follows:

(a) paragraph (c) thereof shall be substituted by the following new paragraph:

"(c) the country where the third country AIFM or the third country AIF is established is not identified as a high-risk third country in accordance with Article 9(2) of Directive (EU) 2015/849;";

(b) immediately after paragraph (c) thereof, as substituted, there shall be added the following new paragraph:

"(d) the country where the third country AIFM or the third country AIF is established has signed an agreement with Malta or with the competent authority and with each other Member State or EEA State in which the units or shares of the third country AIF are intended to be marketed which fully complies with the standards stipulated in Article 26 of the OECD Model Tax Convention on Income and on Capital and ensures an effective exchange of information in tax matters, including any multilateral tax agreements, and such third country is not mentioned in Annex I to the Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes.".

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