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

Taqsima B

L.N. 190 of 2026

INVESTMENT SERVICES ACT (CAP. 370)

Investment Services Act (Marketing of Alternative Investment Funds) (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.

S.L. 370.21.

1. (1) The title of these regulations is the Investment Services Act (Marketing of Alternative Investment Funds) (Amendment) Regulations, 2026 and these regulations shall be read and construed as one with the Investment Services Act (Marketing of Alternative Investment Funds) Regulations, hereinafter referred to as the "principal regulations".

(2) The scope of these regulations is to transpose the relevant provisions of Article 1(8), (19) and (22) 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 6 of the principal regulations.

3. Immediately after sub-regulation (6) of regulation 6 of the principal regulations there shall be added the following new sub-regulation:

"(6a) An AIFM may market units or shares of a European AIF which invests predominantly in the shares of a particular company, to employees of such company or of its affiliated entities within the framework of employee savings schemes or employee participation schemes, on a domestic or cross-border basis:

Provided that where such an AIF is marketed to employees in Malta, it shall not be subject to any requirements in addition to those applicable in the home Member State of the

AIF.".

Adds a new heading and regulations to the principal regulations.

4. Immediately after regulation 6 of the principal regulations, there shall be added the following new heading and regulations:

"MISCELLANEOUS

Cooperation with European regulatory authorities.

6A. (1) Where Malta is the European AIFM host Member State or EEA State, the competent authority may, where it has reasonable grounds for doing so, request the European regulatory authority of the European AIFM home Member State or EEA State to exercise, without delay, powers pursuant to Article 46(2) of the AIFM Directive, other than paragraph (j) thereof, as transposed in national law, specifying the reasons for their request in as specific a manner as possible and informing ESMA and, if there are potential risks to the stability and integrity of the financial system, the ESRB thereof.

(2) Where the European regulatory authority of the Maltese AIFM host Member State or EEA State makes a request to the competent authority in accordance with Article 50(5f) of the AIFM Directive, as transposed in national law, to exercise, without delay, any of its powers in accordance with Article 46(2) of the AIFM Directive, other than paragraph (j) thereof, as transposed in the Act, the competent authority shall, without undue delay, inform such European regulatory authority, ESMA and, if there are potential risks to the stability and integrity of the financial system, the ESRB, of the powers exercised and its findings.

Notification regarding liquidity management tools.

6B. (1) The competent authority shall inform, without delay, the European regulatory authorities of the Maltese AIFM host Member State or EEA State, ESMA and, if there are potential risks to the stability and integrity of the financial system, the ESRB, of any notification received in accordance with Article 16(2d) of the AIFM Directive, as transposed in the Investment Services Rules:

Provided that ESMA may share the information received pursuant to this sub-regulation with the European regulatory authorities referred to in this sub-regulation.

(2) Where the competent authority exercises powers in accordance with Article 15(2)(l) of the Act, it shall notify the European regulatory authorities of the Maltese AIFM host Member State or EEA State, ESMA and, if there are potential risks to the stability and integrity of the financial system, the ESRB thereof.

(3) Where Malta is the European AIFM host Member State or EEA State, the competent authority may request the European regulatory authorities of the European AIFM home Member State or EEA State to exercise powers pursuant to paragraph (j) of Article 46(2) of the AIFM Directive, as transposed in national law, specifying the reasons for the request and informing ESMA and, if there are potential risks to the stability and integrity of the financial system, the ESRB thereof.

(4) Where the competent authority does not agree with a request received in accordance with Article 50(5b) of the AIFM Directive, as transposed in national law, it shall inform the requesting European regulatory authorities of the Maltese AIFM host Member State or EEA State, ESMA and, where the ESRB was informed of such request in accordance with the said Article, as transposed in national law, the ESRB thereof, stating the reasons for the disagreement:

Provided that in such case, an opinion shall be issued by ESMA in accordance with Article 50(5d) of the AIFM Directive.

(5) Where the competent authority does not act in accordance with ESMA's opinion as referred to in sub-regulation (4), or does not intend to comply with such opinion, it shall inform ESMA and the requesting European regulatory authorities of the Maltese AIFM host Member State or EEA State thereof, stating the reasons for its non-compliance or intention not to comply:

Provided that in the event of a serious threat to investor protection, to the orderly functioning and integrity of financial markets or to the stability of the whole or part of the financial system in the European Union and unless such publication conflicts with the legitimate interests of the AIF's unit holders or of the public, the fact that the competent authority does not comply or does not intend to comply with ESMA's opinion, together with the reasons provided by the competent authority for its non-compliance or intention not to comply, may be published by ESMA:

Provided further that an analysis shall be carried out by ESMA whether the benefits of publication would outweigh the amplification of the threats to investor protection, to the orderly functioning and integrity of financial markets or to the stability of the whole or part of the financial system in the European Union resulting from such publication, and the competent authority shall be given advance notice of such publication.".

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