
Chairman

Minister for Finance

Malta Financial Services Authority

L.N. ___ 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 for Finance, 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) (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”.

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.

Amends regulation 2 of the principal regulations.

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

(a) in paragraph (a) thereof, for the words, “AIFs; or”, there shall be substituted the word, “AIFs;”;

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

(c) immediately after paragraph (b) thereof, as amended, there shall be inserted the following new 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.”.

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.”

(b) in sub-regulation (2) thereof, words “manage a European AIF” there shall be

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

(d) in paragraph (b) of sub-regulation (2) thereof, for the words, “perform and identifying”, there shall be substituted the words, “perform and, or identifying”.

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.”;

(b) in sub-regulation (2) thereof, immediately after the words, “to manage a European AIF”, there shall be inserted the words “and provide the services referred to in paragraph (b) of sub-regulation 1 above,”

(c) in paragraph (b) of sub-regulation (2) thereof, for the words, “perform and identifying”, there shall be substituted the words, “perform and, or identifying”.

Amends regulation 6 of the principal regulations.

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

(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, immediately after the words, “manage Maltese AIFs”, there shall be inserted the words, “and provide the services referred to in paragraph (b) of sub-regulation (1)”;

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

(d) in paragraph (b) of sub-regulation (2) thereof, for the words, “perform and identifying”, there shall be substituted the words, “perform and, or identifying”.

Amends regulation 7 of the principal regulations.

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

(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 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, immediately after the words, “manage a Maltese AIF”, there shall be inserted the words, “and, or provide the services referred to in paragraph (b) of sub-regulation (1)”;

(c) in paragraph (a) of sub-regulation (2) thereof, immediately after the words, “manage AIFs directly in Malta”, there shall be inserted the words, “and, or provide the activities and services referred to in paragraph (b) of sub-regulation (1) in Malta through the establishment of a branch”; and

(d) in paragraph (b) of sub-regulation (2) thereof, for the words, “perform and identifying”, there shall be substituted the words, “perform and, or identifying”.