International
Comparative
Legal Guides

Alternative Investment Funds 2021

A practical cross-border insight into alternative investment funds work

Ninth Edition

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Industry Chapter

1 The State of Play for the Alternative Investment Industry in 2021 and Beyond
Jack Inglis, AIMA

Expert Analysis Chapters

6 Three Trends in Private Funds
Gus Black, Tricia Lee & Zachary Oswald, Dechert LLP

9 Fund Finance: 2020 Year in Review
Michael C. Mascia, Cadwalader, Wickersham & Taft LLP

12 GP-Led Transactions: The Investor's Perspective
Jeremy Elmore & Andrew Benson, Travers Smith LLP

17 Bringing Foreign Investment Funds into Japan
Yasuzo Takeno & Fumiharu Hiromoto, Mori Hamada & Matsumoto

Q&A Chapters

22 Andorra
Cases&Lacambra: Miguel Cases Nabau & Laura Nieto

29 Angola
VdA: Pedro Simões Coelho, Ricardo Seabra Moura, Carlos Couto & Inês Moreira dos Santos

36 Austria
DORDA Rechtsanwälte GmbH: Andreas Zahradnik, Elisabeth Reiner & Paul Doralt

44 Brazil
Lefosse Advogados: André Mileski & Gustavo Paes

52 Cayman Islands
Maples Group: Grant Dixon, Andrew Keast & Stephen Watler

61 Chile
Carey: Cristián Eyzaguirre, Francisco Guzmán & Andrés Latorre

68 Cyprus
Patrikios Pavlou & Associates LLC: Angeliki Epaminonda & Angelos Onisiforou

76 England & Wales
Travers Smith LLP: Jeremy Elmore & Emily Clark

88 Finland
Waselius & Wist: Olli Kiuru

95 Germany
Flick Gocke Schaumburg: Christian Schatz

101 Hong Kong
Deacons: Taylor Hui, Fiona Fong & Siew Tin Tee

110 Ireland
Dillon Eustace: Brian Kelliher & Richard Lacken

124 Italy
LEXIA Avvocati: Angelo Messore, Francesco Dagnino, Alessandro Dagnino & Alessandro Liotta

132 Japan
Anderson Mori & Tomotsune: Koichi Miyamoto & Takahiko Yamada

142 Luxembourg
GSK Stockmann: Dr. Marcel Bartnik, Corinna Schumacher, LL.M. & Katharina Schiffmann

151 Mozambique
VdA: Pedro Simões Coelho, Ricardo Seabra Moura, Carlos Couto & Inês Moreira dos Santos

158 Portugal
VdA: Pedro Simões Coelho, Ricardo Seabra Moura, Carlos Couto & Inês Moreira dos Santos

170 Scotland
Brodies LLP: Andrew Akintewe

179 South Africa
Webber Wentzel: Nicole Paige, Ashford Nyatsumba, Dawid de Villiers & Danelle Prinsloo

187 Spain
Cases&Lacambra: Ignacio Ramos & Araceli Leyva

197 Switzerland
Bär & Karrer Ltd.: Daniel Flühmann & Peter Hsu

207 USA
Dechert LLP: Karen L. Anderberg & Adrienne M. Baker

Cyprus

Angeliki Epaminonda

Angelos Onisiforou

Patrikios Pavlou & Associates LLC

1 Regulatory Framework

1.1 What legislation governs the establishment and operation of Alternative Investment Funds?

The establishment and operation of Alternative Investment Funds ("AIFs") is governed by the Alternative Investment Funds Law 124(I)/2018 ("AIF Law") as well as any secondary legislation issued in the form of derivatives/circulars by the Cyprus Securities and Exchange Commission ("CySEC"). In addition, and depending on whether an AIF is internally and/or externally managed, the Alternative Investment Fund Managers Law of 2013 ("AIFM Law") and Directive 2011/61/EU ("AIFMD") provide further regulation in relation to this sector.

1.2 Are managers or advisers to Alternative Investment Funds required to be licensed, authorised or regulated by a regulatory body?

Yes, external managers of AIFs are required to be licensed, authorised and regulated by CySEC. The following entities can take the role of an external manager of an AIF:

(i) an Alternative Investment Fund Manager ("AIFM"), in accordance with the AIFM Law;
(ii) a UCITS management company authorised in accordance with the Open-Ended Undertakings for Collective Investments Law (UCI) Law of 2012;
(iii) a Mini Fund Manager, authorised by Law No. 81(I)/2020 for the management of AIF investments whose assets under management do not exceed the limits laid down by article 4(2) of the AIFM Law or article 3(2) of the AIFMD;
(iv) an AIFM authorised in another EU Member State that is subject to prudential rules under the relevant legislation of its EU Member State of origin; or
(v) a Cyprus Investment Firm, authorised by the Investment Services and Activities and Regulated Markets Law ("MiFID II Law").

1.3 Are Alternative Investment Funds themselves required to be licensed, authorised or regulated by a regulatory body?

Yes, CySEC is the regulatory body responsible for the licensing, authorisation and regulatory compliance of AIFs. Registered Alternative Investment Funds ("RAIFs") do not need to receive authorisation from CySEC, they merely need to be registered with CySEC.

1.4 Does the regulatory regime distinguish between open-ended and closed-ended Alternative Investment Funds (or otherwise differentiate between different types of funds or strategies (e.g. private equity *vs.* hedge)) and, if so, how?

Yes, the regulatory regime distinguishes between open-ended and closed-ended AIFs. An AIF may be of the open-ended type if its shares or units are, at the request of any of its shareholders or unitholders, repurchased or redeemed prior to the commencement of its liquidation phase or winding up, directly or indirectly, out of the assets of the AIF and in accordance with the procedures and frequency set out in its fund rules or instruments of incorporation, prospectus or offering document. In all other cases they are of a closed-ended type. An AIF is classified as having a particular strategy if it invests more than 60% of its assets in a single category.

1.5 What does the authorisation process involve and how long does the process typically take?

The authorisation process involves submission of the following information to CySEC:

Common Fund

(i) the name and the data identifying and certifying the appropriateness of the AIF's external manager, as well as the identity of the persons responsible for the risk management and portfolio management functions;
(ii) a statement by the external manager confirming that it agrees to perform the investment management functions for the AIF;
(iii) a statement by the depositary confirming that it agrees to perform the depositary functions;
(iv) the identity of the person or persons appointed by the depositary as responsible for monitoring the activity of the AIF;
(v) a draft of the AIF's fund rules, signed by the AIF's external manager;
(vi) a draft of the AIF's offering document;
(vii) a draft of the AIF's key investor information document; and
(viii) any other information as provided in article 30(1) of the AIFM Law.

Investment Company

(i) in case of a company under incorporation, the persons that will sign the instruments of incorporation; or
(ii) in case of an existing company, the members of the board of directors; and

(iii) when the investment company is externally managed, the following must be submitted to CySEC:
  (a) the name, registered address, and address of the headquarters of the AIF;
  (b) sufficient information and data, including a résumé, of the persons who effectively direct the business of the internally managed AIF;
  (c) the name and the data identifying and certifying the appropriateness of the AIF's external manager, as well as the identity of the persons responsible for the risk management and portfolio management functions;
  (d) a statement by the external manager, where one is appointed, confirming that it agrees to perform the investment management functions for the AIF;
  (e) a statement by the depositary confirming that it agrees to perform the depositary functions;
  (f) the identity of the person or persons appointed by the depositary as responsible for monitoring the activity of the AIF;
  (g) a draft of the AIF's instruments of incorporation;
  (h) a draft of the AIF's offering document;
  (i) a draft of the AIF's key investor information document; and
  (j) any other information as provided in article 30(1) of the AIFM Law.

Limited Partnership

The external manager, or the general partner of the Limited Partnership in case of a self-managed AIF, in addition to the application for authorisation, shall submit the following:

(i) the name, address of the registered office and the place of basic activity of the partnership;
(ii) sufficient information and data, including a résumé, for the persons who effectively direct the business of the internally managed AIF;
(iii) the name and the data identifying and certifying the appropriateness of the AIF's external manager;
(iv) a statement by the external manager, where one is appointed, confirming that it agrees to perform the investment management functions for the AIF;
(v) a statement by the depositary confirming that it agrees to perform the depositary functions for the assets of the AIF;
(vi) the identity of the person or persons appointed by the depositary as responsible for monitoring the activity of the AIF;
(vii) a draft of the AIF's partnership agreement;
(viii) a draft of the AIF's offering document;
(ix) a draft of the AIF's key investor information document; and
(x) any other information as provided in article 30(1) of the AIFM Law.

CySEC shall grant authorisation to the AIF only if it approves:

(i) the relevant application as described above;
(ii) the rules or instruments of incorporation;
(iii) its choice of external manager or, in the case of a self-managed AIF, the persons who effectively conduct the business; and
(iv) its choice of depositary, if one is appointed.

CySEC shall inform the external manager of the AIF or the self-managed AIF of its decision within six months of the submission of a complete application file.

1.6 Are there local residence or other local qualification or substance requirements?

AIFs which operate in the form of an investment company must be authorised by CySEC and have their registered office in the Republic of Cyprus.

In the case of an internally managed AIF, the board of directors shall undertake the responsibilities of the external manager, which shall appoint at least one person responsible for the portfolio management who meets the following conditions:

(i) he holds academic qualifications and/or has experience related to the assets in which the AIF is allowed to invest;
(ii) he is certified to provide portfolio management services in accordance with the provisions of the Investment Services and Activities and Regulated Markets Law, as amended; and
(iii) he is registered in the public register kept by CySEC, which lists the persons who have succeeded in CySEC's exams.

1.7 What service providers are required?

This highly depends on structure of the AIF in question. The usual service providers of an AIF are the depositary, the fund administrator and the auditor.

1.8 What rules apply to foreign managers or advisers wishing to manage, advise, or otherwise operate funds domiciled in your jurisdiction?

An AIFM of another EU Member State which is authorised in accordance with the AIFMD may undertake the following either directly or by establishing a branch:

(i) manage AIFs established in the Republic, provided that the AIFM is authorised to manage that type of AIF; and
(ii) provide in the Republic of Cyprus the services which are covered by the AIFM licence.

An AIFM of another EU Member State which intends to manage AIFs established in the Republic of Cyprus for the first time may start providing its services in the Republic of Cyprus upon receipt of the transmission notification from the competent authorities of its home Member State.

1.9 What relevant co-operation or information sharing agreements have been entered into with other governments or regulators?

CySEC maintains a wide range of co-operation agreements and/or memoranda of understanding with many jurisdictions. For further information on the memoranda of understanding, please refer to: https://www.cysec.gov.cy/en-GB/cysec/INTERNATIONAL-AFFAIRS/MoU/.

2 Fund Structures

2.1 What are the principal legal structures used for Alternative Investment Funds?

The legal structures available for AIFs are:

(i) AIFs with an unlimited number of persons (AIFs), which can take the form of a Common Fund or Variable/Fixed Capital Investment Company subject to the Companies Law Cap. 113, or the form of a Limited Partnership with or without legal personality subject to the General and

Limited Partnerships and Business Names Law Cap. 116. AIFs are addressed to both retail and professional and/or well-informed investors with no imposed limit on the number of investors that can participate. The minimum capital requirement is €125,000 at all times both for externally managed and self-managed AIFs.

(ii) AIFs with a limited number of persons (AIFLNPs), which can take the form of a Variable/Fixed Capital Investment Company subject to the Companies Law Cap. 113 or a Limited Partnership with or without legal personality subject to the General and Limited Partnerships and Business Names Law Cap. 116. The minimum capital requirement for a self-managed AIFLNP is €50,000 at all times. If the AIFLNP is externally managed, then no minimum capital requirement exists.
AIFLNPs are addressed only to professional and/or well-informed investors. The number of investors that can participate in this type of fund is limited to 50. Where the AIFLNP is structured as an umbrella fund with multiple investment compartments, the limit of 50 investors applies to the total number of investors and not to each investment compartment separately.

(iii) Registered Alternative Investment Funds (RAIFs), Common Funds or Variable/Fixed Capital Investment Companies, subject to Companies Law Cap. 113, or Limited Partnerships with or without legal personality, subject to the General and Limited Partnerships and Business Names Law Cap. 116.
RAIFs are addressed only to professional and/or well-informed investors. There is no limit on the number of investors that can participate in the fund and there are no minimum capital requirements.

2.2 Please describe the limited liability of investors in respect of different legal structures and fund types (e.g. PE funds and LPACs).

The general principle is that the liability of the investors is limited to the amount they have invested via their participation in the particular fund structure.

2.3 What are the principal legal structures used for managers and advisers of Alternative Investment Funds?

A manager usually takes the form of a private limited liability company pursuant to the Companies Law (Cap. 113). Please also refer to question 1.2 above.

2.4 Are there any limits on the manager's ability to restrict redemptions in open-ended funds or transfers in open-ended or closed-ended funds?

The suspension of redemption or repurchase of the units of an AIF, irrespective of whether it is an open- or closed-ended fund, is only allowed in exceptional cases where this is mandated by the circumstances or allowed by the AIF's rules and, in any case, if this is in the best interests of the unitholders. Furthermore, such suspension requires the prior approval of the external manager, or the AIF in case it is internally managed, as well as authorisation by CySEC which is communicated by the external manager, or the AIF in case it is internally managed, to the competent authorities of the other countries in which the units of the AIF are marketed.

The decision on such suspension must also set its timeframe. Any extension of this timeframe is only permitted upon authorisation by CySEC. In addition, CySEC may decide to extend the suspension period where this is justified by the interests of the unitholders of the AIF and where it is necessary in order to ensure the proper functioning of the market.

2.5 Are there any legislative restrictions on transfers of investors' interests in Alternative Investment Funds?

The general rule is that no legislative restrictions exist on the transfer of investors' interests in AIFs subject to any restrictions contained in their rule of operation and/or their constitutional/formation documents.

Please refer to the analysis in question 2.4 above.

2.6 Are there any other limitations on a manager's ability to manage its funds (e.g. diversification requirements, asset stripping rules)?

Other than the investment restrictions and limitations imposed by CySEC as described below in question 4.2, and the limitations imposed by the AIFMD and the AIFM Law relating to asset stripping, there are no limitations on an AIFM's ability to manage AIFs.

3 Marketing

3.1 What legislation governs the production and use of marketing materials?

The production and use of marketing materials is governed by the AIF Law and the AIFM Law. CySEC also issues detailed domestic guidelines from time to time. In addition, Regulation (EU) No. 1286/2014 ("PRIPS Regulation") governs the production and offering of the key information document (KID) where units are offered to retail investors.

3.2 What are the key content requirements for marketing materials, whether due to legal requirements or customary practice?

Prospective investors are provided with the offering document of the AIF, fund rules or instrument of incorporation and its latest annual and half yearly reports, and disclose to a prospective investor the latest net asset value of the AIF or the latest market price of its units.

The following information is disclosed prior to investment:

(i) a description of:
  (a) the investment strategy and objectives of the AIF;
  (b) the procedures by which the AIF may change its investment strategy or investment policy, or both;
  (c) the main legal implications of the contractual relationship entered into for the purpose of investment;
  (d) how the AIFM is complying with the AIF Law;
  (e) any delegated management functions;
  (f) the AIF's valuation procedure and of the pricing methodology for valuing assets;
  (g) the AIF's liquidity risk management;
  (h) all fees, charges and expenses of the AIF; and
  (i) how the AIFM ensures a fair treatment of investors;

(ii) the identity of the AIFM, the AIF's depositary, auditor and any other service providers and a description of their duties and the investors' rights;

(iii) the procedure and conditions for the issue and sale of units;

(iv) the historical performance of the AIF; and

(v) the identity of the prime broker.

For open-ended AIFs addressed to retail investors, a key investors' information document is also given to the applicant free of charge.

As a general rule, all marketing communications of an AIF to the investors shall be precise, clear and not misleading.

3.3 Do the marketing or legal documents need to be registered with or approved by the local regulator?

Core marketing materials such as those indicated in question 3.2 need to be approved by CySEC.

3.4 What restrictions are there on marketing Alternative Investment Funds?

Marketing of AIF units to another EU Member State or third country

The external manager or the AIF, in case it is internally managed, may market in another Member State or third country the units of the AIF to professional and/or well-informed investors only if this is allowed by the legislation of that Member State or third country, or to retail investors, but in the latter case further notification requirements are applicable. Before the marketing of the units of the AIF in the Member State or third country begins, the external manager or the AIF, in case it is internally managed, shall submit to CySEC a confirmation by the competent authorities of the Member State or third country that the appropriate marketing procedures regarding the marketing of units of the AIF in its jurisdiction, provided by the legislation of the host country, have been followed.

Marketing of AIF units from another EU Member State or third country into Cyprus

An AIF established in another Member State or third country, which is externally managed by an AIFM, may market its units in the Republic of Cyprus in accordance with the provisions of the AIFM Law.

AIFs established in another Member State or third country which do not fall within the scope of the AIFM Law may market their units in the Republic of Cyprus only where they are subject to effective supervision in their home Member State, in accordance with the applicable legislation, to ensure the protection of investors and on the condition that they have been authorised by CySEC for the marketing of their units in the Republic of Cyprus.

AIFLNPs

The marketing of an AIFLNP's units is forbidden prior to the granting of authorisation and notification of authorisation by CySEC.

RAIFs

The marketing of RAIF units to its investors is carried out in accordance with the AIF Law.

Please note that there are further restrictions on marketing to retail and well-informed investors; please see question 3.5 below.

3.5 Is the concept of "pre-marketing" (or equivalent) recognised in your jurisdiction? If so, how has it been defined (by law and/or practice)?

Directive 2019/1160/EU of 20 June 2019 on cross-border distribution, which regulates pre-marketing, has yet to be transposed into Cyprus law. EU Member States are required to transpose the Directive by 2 August 2021.

It remains to be seen how this will be implemented into the law of the Republic of Cyprus.

3.6 Can Alternative Investment Funds be marketed to retail investors?

AIFs can be marketed to retail investors in Cyprus provided that the AIF has been granted authorisation by CySEC in accordance with the relevant provisions of the AIF Law and the AIFM Law.

Where the AIF is addressed to retail investors, additional requirements exist as follows:

(i) marketing communications must specify where and in which language the offering document may be obtained by the investors and the authorisation number of the AIF. All marketing communications and every document or message which contains, directly or indirectly, an invitation to purchase units of an AIF, including those posted on the internet, must include in a prominent section that the performance of the investment in units of the AIF is not guaranteed and previous returns do not ensure future ones. In case of an AIF with guaranteed performance, the above reference shall be limited to the fact that past performance does not guarantee the same in future;

(ii) in case an AIF replicates a stock exchange index, all marketing communications must include a specific statement in a prominent section on the attention the investors need to show to the investment policy of the AIF; and

(iii) in case the net asset value of an AIF may have high volatility because of the composition of its portfolio or the management techniques used, all marketing communications shall include a specific statement in a prominent section drawing the attention of the investors to this aspect.

3.7 What qualification requirements must be met in relation to prospective investors?

Further to question 2.1 above, which specifies what type of investor can invest in which fund under the laws of Cyprus, there is a distinction between: (i) a professional investor (an investor that is considered to be a professional client or may, on request, be treated as a professional client within the meaning of the MiFID II Law); (ii) a well-informed investor (every investor who is not a professional investor as further defined in the AIF Law); and (iii) a retail investor (an investor who does not qualify as a professional investor nor as a well-informed investor).

3.8 Are there additional restrictions on marketing to public bodies such as government pension funds?

No particular restrictions exist on marketing AIFs to public bodies.

3.9 Are there any restrictions on the participation in Alternative Investments Funds by particular types of investors (whether as sponsors or investors)?

There are no restrictions on participation in AIFs subject to the internal on-boarding procedure of each particular AIF and anti-money laundering restrictions.

3.10 Are there any restrictions on the use of intermediaries to assist in the fundraising process?

No particular restrictions exist on the use of intermediaries.

4 Investments

4.1 Are there any restrictions on the types of investment activities that can be performed by Alternative Investment Funds?

No particular restrictions exist on the types of investment activities; however, all its investment activities and/or investments must be made in accordance with its defined investment policy as approved by CySEC.

4.2 Are there any limitations on the types of investments that can be included in an Alternative Investment Fund's portfolio, whether for diversification reasons or otherwise?

AIFs which are addressed to retail investors are allowed to invest in, *inter alia*, one or more of the following:

(a) transferable securities;
(b) money market instruments;
(c) units of collective investment undertakings;
(d) derivative instruments which satisfy certain conditions;
(e) deposits with credit institutions;
(f) immovable property and property related to immovable property;
(g) mortgage-related securities;
(h) securities which encompass claims of up to 30%;
(i) commodities of up to 20%; and
(j) exchanges of up to 20%.

Further restrictions and conditions apply for AIFs addressed to retail investors with respect to investing in shares giving them voting rights in other AIFs, entering into loan agreements secured by assets of the AIF, investing in cash in the same organisation, investing in collective investment funds, investing in securities not admitted or traded on a regulated market and investing in securities of the same issuer, etc.

4.3 Are there any local regulatory requirements which apply to investing in particular investments (e.g. derivatives or loans)?

They are allowed to invest subject to certain requirements set out in a domestic directive issued by CySEC.

4.4 Are there any restrictions on borrowing by the Alternative Investment Fund?

An AIF addressed to retail investors may enter into loan agreements which do not exceed, at any time, 25% of the net asset value of the AIF's assets. No restrictions exist for professional and well-informed investors.

4.5 Are there are any restrictions on who holds the Alternative Investment Fund's assets?

Under the AIF Law, the assets of the AIF must be entrusted for safekeeping to a depositary which:

(a) has its registered office in the Republic of Cyprus or in another Member State, or a third country provided that:
  (i) in the third country where the depositary is established, depositaries are subject to prudential regulation and supervision, including minimum capital requirements;
  (ii) the third country where the depositary is established is not listed as a Non-Cooperative by the FATF;
  (iii) the third country has signed an agreement with the Republic of Cyprus which fully complies with the standards laid down in Article 26 of the OECD Model Tax Convention on Income and Capital and ensures an effective exchange of information in tax matters, including any multilateral tax agreements; and
(b) is a credit institution or an investment firm, or another category of institution established in a Member State that is subject to prudential regulation and supervision and which falls within the categories of institutions determined by Member States as eligible to be appointed as depositaries.

Further, if the AIF invests, in accordance with its investment policy, in assets which are not subject to custody, as per the provisions of the AIFM Law, it may appoint as a depositary an entity performing depositary services within the context of its professional or business activities for the performance of which the entity is subject to professional registration recognised by the law, or an administrative authority or by professional conduct rules.

Lastly, the requirement for the appointment of a depositary can be dispensed with for AIFLNPs under certain conditions.

5 Disclosure of Information

5.1 What disclosure must the Alternative Investment Fund or its manager make to prospective investors, investors, regulators or other parties, including on environmental, social and/or governance factors??

The fund rules or instruments of incorporation of the AIF shall specify the way the net asset value of AIF units, as well as the subscription price and redemption price of AIF units, are disclosed to investors.

The external manager or the AIF, in case it is internally managed, shall prepare and submit to CySEC, without undue delay:

(i) every material change in the offering document of the AIF;
(ii) an annual report for each financial year; and
(iii) a half-yearly report covering the first six months of the financial year. The annual and half-yearly report of the AIF shall be communicated to CySEC by the external manager of the AIF, and made available to the investors by the external manager of the AIF at the points of distribution of its units within the following time limits from the end of the period to which they relate:
  (a) six months in the case of the annual report; or
  (b) two months in the case of the half-yearly report.

The offering documents of the AIF, its fund rules or instruments of incorporation and its latest annual and half-yearly report are provided to any potential investors of the AIF.

The AIF shall provide the investors, free of charge, with its annual report, following a relevant request by them.

RAIFs

The cover of the offering document of the RAIF shall include in a prominent section that:

(i) the RAIF is not authorised by the CySEC;
(ii) the RAIF is addressed only to professional and/or well-informed investors; and
(iii) the registration of the RAIF in the RAIFs Register is not equivalent to authorisation by CySEC.

5.2 Are there any requirements to provide details of participants (whether owners, controllers or investors) in Alternative Investment Funds or managers established in your jurisdiction (including details of investors) to any local regulator or record-keeping agency, for example for the purposes of a public (or non-public) register of beneficial owners?

On 18 February 2021, the Republic of Cyprus fully implemented EU Directive 2018/843 of the European Parliament and of the Council of 30 May 2018, which will create three Ultimate Beneficial Owners registers in the Republic of Cyprus, namely:

(i) the Companies Register. This register will be maintained by the Registrar of Companies and Official Receiver and will be open to the public;

(ii) the Express Trusts and Similar Legal Arrangement Register. This register will be maintained by CySEC. It will not be open to the public, but it may be accessible to those persons who can prove a legitimate interest; and

(iii) the Register of Legal Bodies, other than those registered with the Registrar of Companies, such as clubs, foundations, unions and federations. This register will be maintained by the General Commissioner and will be open to the public.

5.3 What are the reporting requirements to investors or regulators in relation to Alternative Investment Funds or their managers, including on environmental, social and/or governance factors??

In relation to AIFs with an unlimited number of persons, the annual audited report as well as the half-yearly unaudited report must be submitted to CySEC and made available to investors. In relation to AIFLNPs, the annual audited report must be submitted to CySEC and must be made available to investors. There are no particular reporting requirements for RAIFs; CySEC will rely on the regulated status of the AIFM to ensure both the compliance and supervision of the RAIF.

AIFMs shall regularly report to CySEC the following: (i) the principal markets and instruments in which they trade on behalf of the AIFs they manage; and (ii) the main categories of assets held by each AIF.

For each of the EU AIFs they manage and for each of the AIFs they market in the EU, the following must be disclosed to CySEC: (i) the percentage of the AIF's assets which are subject to special arrangements due to illiquidity; (ii) any new liquidity arrangements of the AIF and results of liquidity stress tests; (iii) the risk profile of the AIF, the risk management systems employed and results of periodic stress tests; and (iv) main categories of assets in which the AIF has invested. The frequency of these reports is dependent on the size of the fund.

5.4 Is the use of side letters restricted?

The use of side letters is not restricted. An AIFM, however, is subject to certain operating conditions including the obligation to treat unitholders fairly and to ensure that no unitholder obtains a preferential treatment unless such preferential treatment is disclosed within the AIF's constitutional documents. This last point is a general principle and thus also applicable to internally managed AIFs.

6 Taxation

6.1 What is the tax treatment of the principal forms of Alternative Investment Funds identified in question 2.1?

Standard taxation rules apply.

AIFs, AIFLNPs, and RAIFs which are established in the form of variable capital investment companies benefit from the following standard corporate taxation rules:

(i) corporation tax is set at 12.5%, which is amongst the lowest in the European Union;

(ii) gains from trading in securities are tax exempt;

(iii) profits on sales of securities are exempt;

(iv) Notional Interest Deduction (NID) for new equity may reduce the taxable base for interest received by up to 80% (for company-type funds), reducing the effective tax on interest to 2.5%;

(v) dividends received, capital gains arising from the sale of property abroad as well as capital gains from the sale of shares of foreign property companies are exempt from tax;

(vi) there is no subscription tax on the net assets of the fund;

(vii) fund management services provided to AIFs are not subject to VAT;

(viii) each compartment of an AIF, although legally not treated as a separate entity, is for tax purposes treated as a separate taxpayer; and

(ix) Cyprus tax resident funds can benefit from a wide array of double taxation treaties.

AIFs in the form of a common fund or a limited liability partnership are considered tax transparent funds. In such case, the national tax laws of the investor will be applied.

6.2 What is the tax treatment of the principal forms of investment manager/adviser identified in question 2.3?

Fund managers:

(i) are usually incorporated in the form of companies and benefit from the standard company taxation rules, set out in the response to question 6.1 above;

(ii) have a 35% cap on personal income tax as well as an option to be taxed at a flat rate of 8% on carried interest for certain employees;

(iii) enjoy a 50% exemption of income earned for a 10-year period from the date of first employment in Cyprus (if emoluments exceed €100,000); and

(iv) subject to certain conditions, fund management services to approved mutual funds and AIFs are exempt from VAT.

6.3 Are there any establishment or transfer taxes levied in connection with an investor's participation in an Alternative Investment Fund or the transfer of the investor's interest?

There is no Capital Gains Tax on the gains arising from the disposal or redemption of units in funds unless the fund owns immovable property in Cyprus. However, even if it owns immovable property in Cyprus, no Capital Gains Tax arises if the fund is listed on a recognised stock exchange.

6.4 What is the local tax treatment of (a) resident, (b) non-resident, and (c) pension fund investors (or any other common investor type) in Alternative Investment Funds?

Foreign Investors

- No withholding tax on dividends.

- No taxation on redemption of units.
- No deemed distribution restrictions.

Resident Investors

- Withholding tax on dividends of 17% if the investor is an individual who is both tax resident and domiciled in Cyprus.
- No taxation on redemption of units.
- No withholding tax if the investor is a company.

Resident Investors – Non-Domiciled

- Exemption from 17% withholding tax on dividends.
- No taxation on redemption of units.
- No withholding tax if the investor is a company.

Where the AIF investor is a non-Cypriot resident, and the AIF is in the form of a common fund or partnership, investors are generally exempt from any withholding tax on distributions and from any tax on the redemption of their units in an AIF under Cyprus law since AIFs in such a form are not considered to have a permanent establishment in Cyprus. National tax legislation will apply instead.

6.5 Is it necessary or advisable to obtain a tax ruling from the tax or regulatory authorities prior to establishing an Alternative Investment Fund?

There is no requirement to obtain advance tax clearance.

6.6 What steps have been or are being taken to implement the US Foreign Account and Tax Compliance Act 2010 (FATCA) and other similar information reporting regimes such as the OECD's Common Reporting Standard?

The Minister of Finance of the Republic of Cyprus signed the FATCA Intergovernmental Agreement between Cyprus and the USA (Intergovernmental Model 1 Agreement Foreign Account Tax Compliance Act) with the US ambassador on 2 December 2014.

On 29 October 2014, the Republic of Cyprus signed, following a Council of Ministers decision dated 22 October 2014, the OECD Multilateral Competent Authority Agreement for the automatic exchange of financial information of financial accounts, which now includes more than 80 signatories.

The Cyprus Government has issued decrees which transpose FATCA and CRS requirements into domestic law.

6.7 What steps are being taken to implement the OECD's Action Plan on Base Erosion and Profit-Shifting (BEPS), in particular Actions 2 (hybrids) (for example ATAD I and II), 6 (prevention of treaty abuse) (for example, the MLI), and 7 (permanent establishments), insofar as they affect Alternative Investment Funds' operations?

On 5 April 2019, Cyprus voted in the first implementation law of the European Union (EU) ATAD and, more specifically, the interest limitation rule, CFC rule, and GAAR, which are effective for tax years commencing from 1 January 2019.

On 19 June 2020, Cyprus voted in the second implementation law with respect to the remaining measures, provided for in the ATAD effective as follows:

- Exit taxation provisions: 1 January 2020.
- Hybrid mismatch rules: 1 January 2020 (except for specific reverse-hybrid mismatch provisions to be effective as of 1 January 2022).

Cyprus signed the Multilateral Convention to Implement Tax Treaty Related Measures (MLI) to Prevent Base Erosion and Profit Shifting (BEPS) on 7 June 2017. Subsequently, Cyprus ratified the MLI on 23 January 2020. The date of "entry into effect" as regards Cyprus' application of the MLI has been set for 1 May 2020.

6.8 Are there any tax-advantaged asset classes or structures available? How widely are they deployed?

Cyprus allows tax optimisation for fund structures. Specialised advice needs to be sought depending on the nature of the underlying asset.

6.9 Are there any other material tax issues for investors, managers, advisers or AIFs?

There are no further material tax issues for investors managers and/or advisers of AIFs.

6.10 Are there any meaningful tax changes anticipated in the coming 12 months other than as set out at question 6.6 above?

The government will be providing further tax incentives in order to put Cyprus in the forefront of the tax industry sector as one of the most competitive industry players.

7 Reforms

7.1 What have been the main trends in the Alternative Investment Funds space in the last 12 months?

The alternative funds sector has witnessed considerable growth over the last few years. More specifically and according to the Central Bank of Cyprus, the total assets held by investment funds increased significantly – approximately 18.9% to €6,678.4 million in March 2021, compared with €5,616.8 million in December 2020. The main reason for this increase is the inclusion in the data of a number of new relatively larger investment funds, compared to the number of smaller investment funds that were either liquidated or reclassified to another institutional sector. Overall, the number of investment funds in March 2021 stood at 222, unchanged from December 2020.

7.2 What reforms (if any) in the Alternative Investment Funds space are proposed?

See question 6.10.

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Patrikios Pavlou & Associates LLC is one of the largest law firms in Cyprus, highly recommended for its professional legal services and exceptional client service. With nearly 60 years of experience in the local and international legal market, Patrikios Pavlou & Associates LLC is renowned for its involvement in some of the largest cross-border transactions and complex litigation and arbitration matters.

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