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Malta's New Notified AIFs

Malta as a funds and finance centre is on a healthy growth path. In 2015, 112 new funds were registered, two new custodians and 22 new investment managers were licensed. The insurance gross premium was up 33.6% year on year and pension assets were up 66% year on year, with now 38 retirement schemes and 27 asset managers in that sector.

In the early days of AIFMD, one of the main criticisms was that it was forcing regulation on investors who do not need or require the protection afforded by AIFMD and that this regulation will increase compliance costs for those type of investors that do not need or want this protection.

Malta has designed a solution for these type of investors where they could, through a new regime called Notified Alternative Investment Funds structure (Notified AIFs / NAIFs) reduce their compliance costs, if they so wish because the regulation of the NAIF will be undertaken through the AIFM.

This new breed of funds has the potential to become the vehicles of choice for the industry within the next four years. **Once included in the list of notified AIFs, the fund can be passported in terms of the AIFMD and therefore marketed on a cross-border basis pursuant to the AIFMD. The new Notified AIF regime applies to not only AIFMs licensed in Malta but also to other AIFMs passporting into Malta. An influx of Notified AIF fund launches is expected already by the end of 2016.**

Notified AIFs can be managed only by a full-scope AIFM

The new Notified AIF regime will run alongside the existing AIF licensing regime. The new approach will only be applicable to qualifying or professional investors and to any structures authorised by the Maltese law and shall be managed by a full-scope AIFM. The notification model has therefore a greater reliance on licensed service providers by shifting more responsibility to them, primarily of course to the investment manager. However, the benefits of Notified AIFs should by far outweigh any negative aspects or additional liabilities placed on the investment manager.

Another great benefit lies within the fact that new funds will be able to come onto the market faster without the need to be authorized by the MFSA and will not be subject to ongoing supervision. Within 10 business days from the date of filing of a complete notification pack, the MFSA will proceed to include the AIF in the List of Notified AIF and the fund can start being operative.

The fund can be marketed to professional investors as defined in MiFID and to qualifying investors as defined in the Investment Services Rules. However, the marketing of the Notified AIFs in EU Member States other than Malta to investors other than professional investors as defined above is not automatic and may be allowed subject to national provisions applicable in the respective jurisdiction as prescribed in Article 43 of the AIFMD.

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This Roundtable explains the characteristics and benefits of Notified AIFs and also lists the categories of AIFs which are excluded and cannot be Notified AIFs. Alongside the AIFs, which until now the authority has always regulated and supervised, Malta also offers the **Professional Investor Fund (PIF) regime**, which was retained for the de-minimis fund managers which fell outside the scope of the AIFMD and third country fund managers. The PIF funds provide a “lighter” regulatory regime and more flexibility than UCITS, AIFs and other funds which are also licensed by the MFSA. Malta’s PIF regime has been a great success. Read in this Roundtable how MFSA is currently reviewing the PIF regime.

The original published Opalesque Roundtable article may be found by clicking here.

Opalesque was formed in 2001 to provide professional news services to participants in the alternative investment sector. Since inception, Opalesque has been providing premium online information services related to the hedge fund and investment industries. The Opalesque publication Alternative Market Briefing is the only daily hedge fund news service read by the elite hedge fund managers themselves.