

Funds Alert

New Alternative Investment Funds Legislation

pwc

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On July 10, 2018, the Cyprus Parliament approved a new legislation which repeals and replaces the previously applicable Law 131(I)/2014 regulating Alternative Investment Funds (AIFs). The introduction of the new legislation, which will come into force upon its upcoming publication in the Official Gazette of Cyprus, is part of the commitment to modernize the existing regulatory framework pertaining to AIFs, aligning the Cyprus funds industry with recent EU and international developments and trends.

The new legislation constitutes a ground-breaking development for Cyprus AIFs as it incorporates a combination of provisions influenced by the respective legislative frameworks of other jurisdictions excelling within the investment funds industry.



Registered AIFs (RAIFs)

A revolutionary development is the introduction of RAIFs resulting to a drastically time efficient and more affordable way for establishing AIFs in Cyprus.

RAIFs do not require authorization by the Cyprus Securities and Exchange Commission (CySEC),

being the competent authority supervising AIFs, in order to commence operations as long as they are externally managed by an Alternative Investment Fund Manager (AIFM) established in Cyprus or within another EU Member State. Instead, the establishment of a RAIF will need to be notified to the CySEC and be included in a special register that shall be maintained to this end.

Appointment of local depository

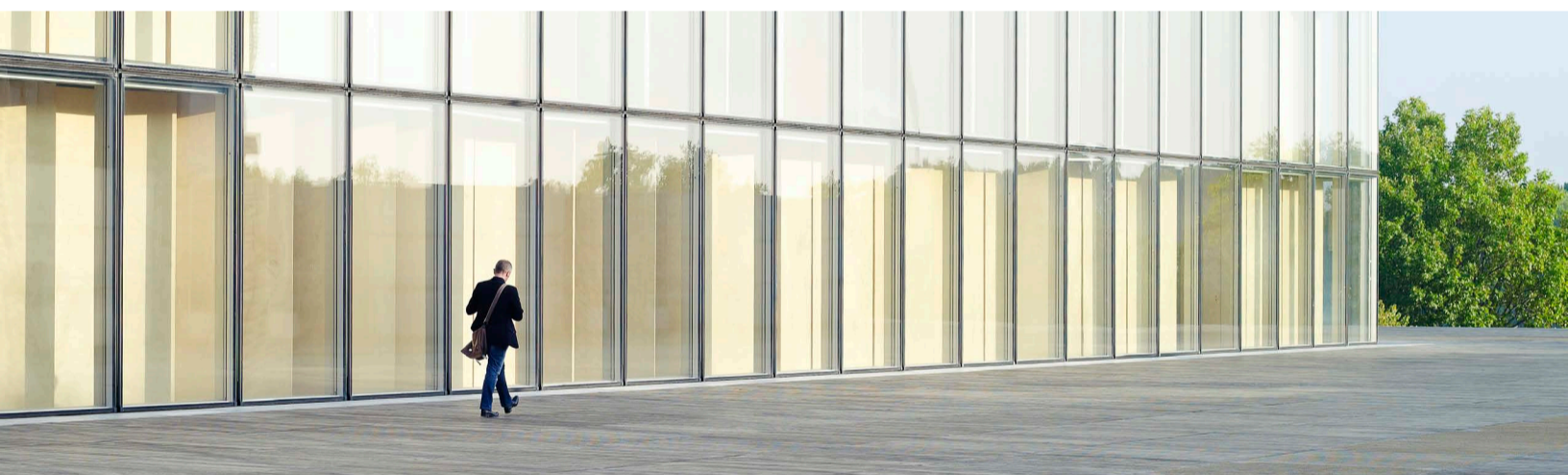
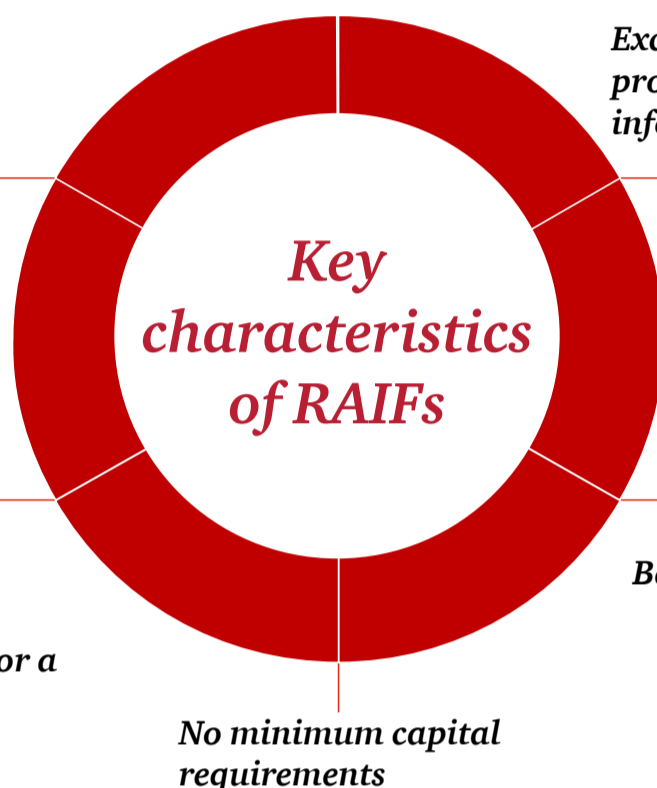
Option for umbrella structure with multiple investment compartments

Structured as either a common fund or an investment company of variable or fixed capital or a limited partnership

In deviation of the above, RAIFs structured as limited partnerships may also be externally managed by managers other than AIFMs (i.e. Investment Firms, UCITS Management Companies); in such event, the RAIF must necessarily be closed-ended and invest in illiquid assets.

AIFs structured as Limited Partnerships with inherent legal personality

Another significant reform is the option for structuring an AIF as a limited partnership with inherent legal personality, resulting to the AIF having separate legal personality compared to the AIFs structured as traditional limited partnerships.



Amendments to the Tax Laws

New provisions have been introduced in the Cyprus tax legislation relating to the taxation of investment funds. The new provisions enhance further the already competitive tax framework of Cyprus applicable for investment funds, fund managers and investors and include the following:

Taxation of carried interest / performance fee for AIF and UCITS fund managers

Certain employees and executives of investment fund management companies or internally-managed investment funds may opt for a new mode of personal taxation.

Subject to conditions, their variable employment remuneration which is effectively connected to the carried interest of the fund managing entity may be subject to Cyprus tax at the flat rate of 8%, with a minimum tax liability of EUR10.000 per annum. The new mode of taxation is available for a period of 10 years in total, subject to the annual election of the individual.

The new provisions aim to enhance the already competitive Cyprus tax framework for fund managers.

No creation of a permanent establishment

No permanent establishment will be deemed to arise in Cyprus in cases of:

- investment into Cyprus tax-transparent investment funds by non-resident investors and
- management from Cyprus of non-Cyprus investment funds

The above provisions safeguard against uncertainties in relation to such cases.

Each compartment treated as a separate taxpayer

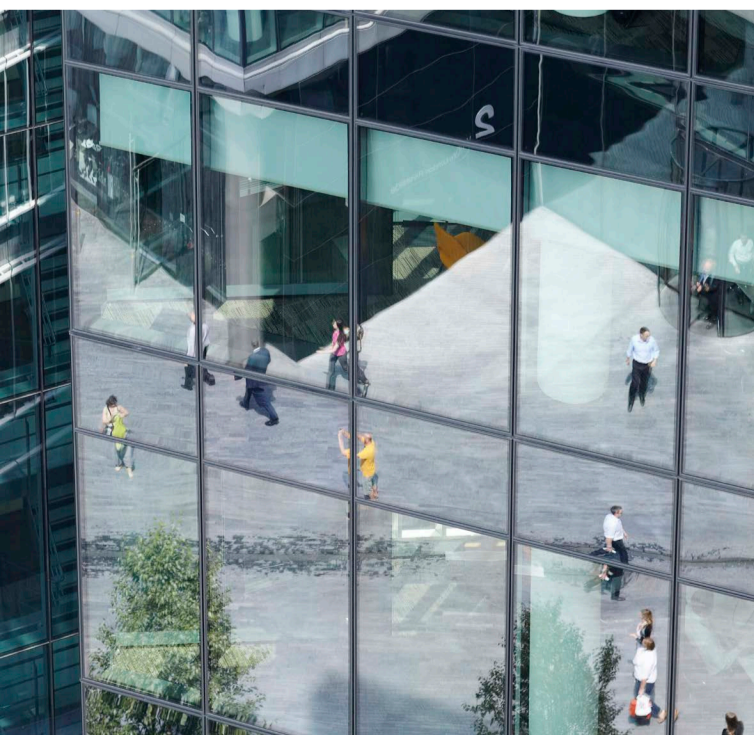
According to the law, each compartment of an AIF or UCITS should be treated as a separate taxpayer.

The amendment further facilitates the effective operation of Cyprus investment funds via multiple compartments, in accordance with international fund industry norms.

Alignment of deemed dividend distribution provisions (relevant to local investors only)

Dividends deemed to be received by Cyprus tax resident and domiciled individuals from Cyprus investment funds are subject to Special Defence Contribution at the rate of 17% i.e. alignment of the relevant rate with the applicable rate on deemed dividends from non-fund investments.

Non-tax resident investors and tax resident non-domiciled investors are not affected by the above development as they are not subject to Special Defence Contribution.



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