



# **Alternative Investment Funds**

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## **The structure and the benefits**

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# ***Presentation Outline***

1. Cyprus AIFs
2. Legal Forms
3. Types of AIFs
4. Main characteristics of AIFs
5. Professionals Involved
6. Management of AIFs
7. Fund Management Companies



# *1. Cyprus AIFs*

## ***AIFs – Framework***

- The Alternative Investment Fund Law N.131(I) 2014 came into force on the 27<sup>th</sup> of July 2014.
- The Cyprus Securities and Exchange Commission (CySEC) is the regulatory authority responsible for the overseeing of Alternative Investment Funds.

# ***Cyprus Framework***

- Assets under Management: 3,2 billion Euro (June 2014)
- Number of Funds: Over 100
- UCITS: 3 (two single schemes and one umbrella-type with 14 sub-funds with 46,4 million of assets under management)
- UCITS Management Companies: 2
- AIFMs: 10
- Custodian banks: 7



## *2. Legal Forms*

## ***Legal form of AIFs***

An AIF can take the following legal forms:

- Fixed Capital Investment Company ('FCIC')
- Variable Capital Investment Company ('VCIC')
- Limited Partnership ('LP') , and
- Common Fund ('CF')

# ***Fixed/Variable Capital Investment Company (‘FCIC/VCIC’)***

## **General Characteristics:**

- Separated Legal Entity with Form of a Limited Liability Company
- Variable or Fixed Capital
- Managed either externally or internally (under conditions)
- Under AIF and Companies Law
- In the case of an AIF/AIFM, the company is also under the AIFM Law, which prevails against the above Laws
- Registered office located in Cyprus



# ***Limited Partnership ('LP')***

## **General Characteristics**

- Separate Legal Entity with Form of a Limited Partnership
- Managed by General Partner
- Under AIF and Limited Partnership Law
- Registered office located in Cyprus

## **General Partner**

- Management and representation of the partnership
- Responsible for all the debts and responsibilities of the partnership
- Sole representative of the Fund and partners
- Can act as an external manager

## ***Common Fund ('CF')***

### **General Characteristics**

- The fund's portfolio is handled mandatory by an External Manager
- External Manager is the sole representative of the Fund and Unit holders
- No separate legal personality, attached to the External Manager
- Reliable only for the actions related to it, no legal obligation in relation to the External Manager's other actions
- Is licensed to work as a mutual fund according to the Law

### *3. Types of AIFs*

# ***Types of AIFS***

- **Alternative Investment Fund with Unlimited Number of Persons:**
  - May be marketed either to professional and/or well-informed or retail investors
  - Have investor shares which are freely transferable
  - May be listed, and in the case of AIF with the legal structure of a “VCIC” or “FCIC” and if marketed to Retail investors, may be traded
  - Are subject to minimum capital requirements equal to EUR 125.000 or EUR 300.000 in the case of an AIF/AIFM
  - Are subject to certain investment restrictions for the purpose of risk spreading and ensuring liquidity

# ***Types of AIFS***

- **Alternative Investment Fund with Limited Number of Persons:**
  - May not exceed the total number of 75 investors
  - May be marketed to professional and/or well-informed investors
  - Are not externally managed by an AIFM authorised manager and/or their assets under management do not exceed the AIFMD thresholds, being (i) EUR 100mm (incl. leverage) or (ii) EUR 500mm
  - Have investor shares which are freely transferable only if their transfer does not result in the AIF having more than 75 investors

# ***Investor Classification***

## **Three classifications of investors:**

### **(i) Professional Investor**

- A Professional Client, as such term is defined in the MiFID

### **(i) Well-informed Investor**

- An Investor that is not a Professional Client and meets the following two requirements:
  - i. Confirms in writing that he/she is a qualified investor and that he/she is aware of the risks involved with an investment in the relevant AIF; and
  - ii. (1) Investment made in AIF is at least EUR 125.000 **OR**  
(2) Expertise, experience and knowledge in evaluating an investment opportunity properly, have been certified by a licensed bank/credit institution, an authorised investment firm or an authorised Management Company

### **(ii) Retail Investor**

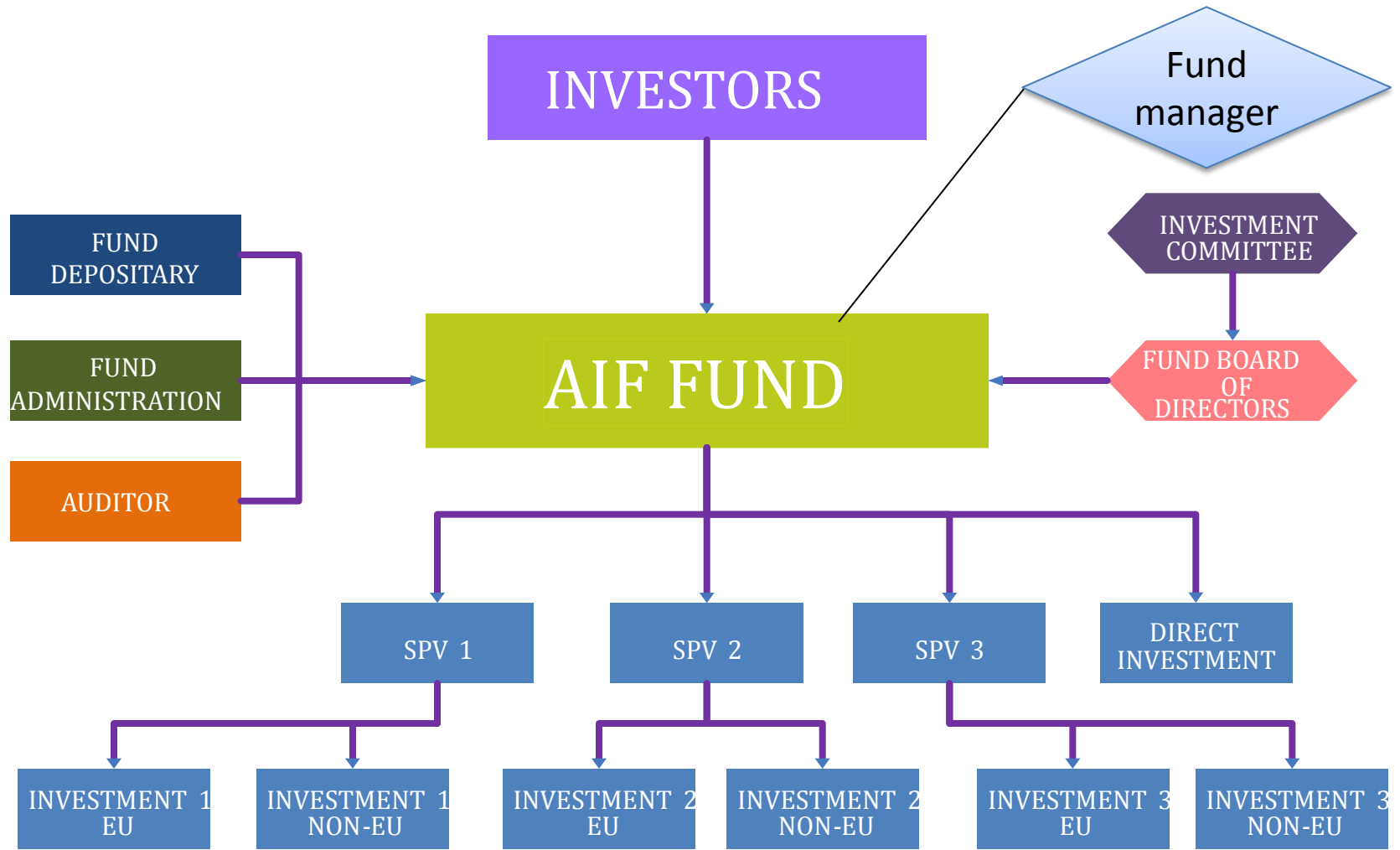
- An investor which does not meet the requirements above.



## *4. Structure and Benefits of AIFs*

## Typical Structure

# The Cyprus AIF





# *The Cyprus AIF*

## **Five Key Benefits**

- **Flexibility:** Any asset can be included in the investment strategy of the AIF (under certain conditions)
- **Transparency:** Annual audited and half yearly reports to be sent to the CySEC and the investors (contain financial statements, information on borrowing, portfolio information, NAV)
- **Tax Incentives:** Cyprus AIF benefit from significant tax incentives / Establishment for taxation purposes can very difficulty be challenged
- **Regulation:** EU directives / business friendly jurisdiction (no onerous reporting requirements)
- **Low set-up and operational costs:** Easy and cost efficient to set up and maintain Cyprus funds.

# ***The Cyprus AIF***

## **Tax Incentives**

- No subscription tax on the net assets of the Fund
- 12,5% flat corporation tax on annual net profits earned worldwide
- Effective 12,5% tax on interest received
- The following income is exempted from tax:
  - Profits from the sale of shares and other instruments (qualifying titles)
  - Dividends received
  - Capital gains arising from sale of immovable property located outside Cyprus
  - Capital gains arising from the disposal of shares/units by the holders
- A network of Double Tax treaties in place with more than 50 countries worldwide
- Possibility of exemption from VAT

# ***Qualifying titles***

1. Ordinary shares
2. Founder's shares
3. Preference shares
4. Options on titles
5. Debentures
6. Bonds
7. Short position on titles
8. Futures/Forwards on titles
9. Swaps on titles
10. Depositary receipts on titles e.g. ADRs and GDRs
11. Rights of claim on bonds and debentures
12. Index participation only if they represent titles
13. Repurchase agreements /REPOS on titles
14. Participation in companies
15. **Units in open-end or closed-end investment schemes that operate under the legislation of their country of incorporation**



## *5. Professionals Involved*

# *Professionals involved*

## **Types of Professionals**

- Depositary
- Administrator
- Auditor
- Investment Manager



# ***Professionals involved***

## **Depository**

- A depository **must be appointed** which has a registered office in the Republic or in the EU or a third country with the condition that CySEC has a written agreement of cooperation with that country
- Alternative Investment Fund with Limited Number of Persons is allowed **not to appoint** a depository if:
  - **Assets do not exceed 5.000.000 euro**
  - **If the incorporation documents or partnership agreement restrict the number of shareholders to 5 persons**

# ***Professionals involved***

## **Administrator**

**It will usually provide in respect of the Fund:**

- Accounting
- Calculation of the Net Asset Value (NAV)
- Maintenance of the Share Register
- Performance of procedures required for transfer and redemption of units
- Reporting to the Regulator and Investors
- KYC procedures
- Reconciliation of depositary account
- Compliance with legislation and Fund provisions.

# ***Professionals involved***

## **Auditor**

- Must be appointed at the incorporation of the scheme.
- The auditor, who must be a **Cypriot based audit firm**, needs to be **approved by the CySEC**.
- **Its duties include:**
  - Annual audit of the financial statements based on IFRS
  - Review of the activities and the compliance with the relevant Cyprus laws
  - Carrying out of specific reporting duties for the CySEC.





## *6. Management of AIFs*

# Management of Alternative Investment Fund

- In the case of an **Alternative Investment Fund with Unlimited Number of Persons**, a Variable Capital Company and Fixed Capital Company can be managed either:
  - internally (self-managed) or
  - externally (appoint an external manager).

An external manager must fulfill the following licensing requirements:

- if coming from an EU Member State, he/she will need to be one of the following:
  - Alternative Investment Fund Manager (AIFM);
  - Undertaking Collective Investment Transferable Securities (UCITS) Management Company;
  - Cyprus Investment Firm (CIF);
- if coming from a third country, he/she will need to comply with the Alternative Investment Fund Manager Directive rules on third country undertakings.

# ***Management of Alternative Investment Fund***

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The licensing requirements for an external manager depend on the investment objectives:

- if the Alternative Investment Fund will invest in financial instruments, then:  
if established in an EU Member State, he/she will need to be one of the following:
  - Undertaking Collective Investment Transferable Securities (UCITS) Management Company; or
  - Cyprus Investment Firm; or

if established in a third country, he/she will need to grant permission for managing the specific Alternative Investment Fund and have adequate regulation and supervision in its home state; or

- if the Alternative Investment Fund will invest exclusively in other types of assets (eg. real estate, shipping, energy, etc.), the externally appointed manager may be a **company incorporated solely for the purpose of managing the specific Alternative Investment Fund** whose suitability is deemed by the Cyprus Securities and Exchange Commission.



## *7. Fund Management Companies*

# ***Fund Management Companies***

## **Harmonised framework across EU**

- UCITS Management Companies

EU Directive 65

- AIF Management Companies

EU Directive 61

# ***The Cyprus Framework for Fund Management Companies***

## **AIF Management Companies**

- Capital requirement: Minimum EUR 125,000 plus an additional 0.02% of Assets Under Management ('AUM') over 250 million (Max EUR 10 million)
- Substance requirements (office in Member state)
- Response to be given within 3 months from complete file submission
- Cross referencing with existing UCITS management companies possible (i.e. information submitted in the process of authorization of a UCITS Management company does not have to be re-submitted)
- Must be used within 12 months
- Once authorized, the AIF Management Company must comply with the conditions at all times

# ***Why setup or relocate a Management Company in Cyprus***

- Relocation to an EU jurisdiction and access to the whole EU investor market via passporting
- Gateway to emerging markets and regions with which Cyprus has established business ties (including tax treaties)
- Business friendly and efficient regulator
- Skilled service providers and established business center with strong track record in servicing international clients
- Cost efficient jurisdiction
- Strong legal framework based on UK Law

# ***Why setup or relocate a Management Company in Cyprus***

## **Tax efficient framework for Fund Managers**

- 50% exemption of income earned for a ten year period from the date of first employment in Cyprus, if salary is over EUR 100.000
- Any income for the Fund Managers would be taxed at 12,5% after deduction of expenses
- No VAT on Fund Management Services





# QUESTIONS?

# THANK YOU

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