

Malta Notified Alternative Investment Funds (AIFs)

What is a Notified Alternative Investment Fund?

Malta was one of the first jurisdictions to transpose the Alternative Investment Fund Managers Directive (AIFMD) in 2013 with a view to regulating Alternative Investment Fund Managers (AIFMs) upon which the Notified Alternative Investment Fund (NAIF) was born, targeting professional and qualifying investors, and managed by a full-scope Maltese or EEA passported AIFM.

A major appeal of the NAIF was that it provides AIFMs with a more efficient and expeditious process to promote and set up investment funds in Malta. The NAIF regulatory framework contemplates the inclusion of an AIF by the MFSA in its List of Notified AIFs within 10 business days from the date of submission of a duly complete NAIF notification pack. A fund may only be notified to the MFSA as a NAIF if it qualifies as an AIF for the purposes of the AIFMD, and is subject to such other conditions as may be prescribed in the Investment Services Act (Chapter 370 of the laws of Malta), and any applicable Investment Services Rules for Investment Services Providers, regulations and guidelines as may be issued by the MFSA from time to time. A NAIF may be established in various legal forms, including, an Investment Company with Variable Share Capital (SICAV), an Incorporated Cell of a Recognised Incorporated Cell Company (RICC), and an Investment Company with Fixed Share Capital (INVCO).

Notification and the AIFM

In turn, the domestic regulatory regime caters for the establishment of PIFs targeting “Qualifying investors”. Qualifying investors would be required to show that they have the requisite knowledge and experience to make their own investment decisions and to understand the risks involved.

One of the key features of a NAIF is that, whilst it does not need to be authorised, licensed or in any way approved by the MFSA and would not be subject to ongoing supervision by the MFSA, a NAIF is still considered as being an alternative investment fund for AIFMD purposes. The AIFM would assume full responsibility for the fulfilment of the NAIF’s obligations and compliance with all applicable licence conditions, rules and regulations. As such, the AIFM would be responsible to apply and maintain a suitable due diligence process in respect of a NAIF, both prior to and following its notification to the MFSA. This means that it is up to the AIFM to ensure that a suitable and fit and proper governing body, and all service providers and functions which may be required for appointment in relation to the NAIF, are properly and adequately constituted and approved in line with AIFMD requirements. Any changes to the NAIF’s offering documents, set-up and its internal organisational and functional structure (such as any change of service provider or other functionary), will have to be notified to the MFSA by the AIFM itself.

Limitations of the NAIF

Conversely, some limitations apply to the NAIF. This means that the NAIF cannot:

- Take the form of a loan fund;
- Be a fund that is managed by a non-EEA AIFM (unless the non-EEA AIFM is constituted and regulated in a jurisdiction in respect of which the European Securities and Markets Authority (ESMA) has recognised the exercise of the European passport in terms of the AIFMD);
- Be a Maltese collective investment scheme that already has a licence to operate as such under Malta's Investment Services Act;
- Invest in non-financial assets (which includes real estate); and,
- Be self-managed.

For more information on how Zeta can assist you please contact our Business Development department on bd@zeta-financial.com.

Get in touch

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