

A Guide to
**Alternative Investment Funds and
Alternative Investment Fund Managers**

Alternative Investment Funds (AIF)

Alternative Investment Funds in Cyprus are regulated by the Alternative Investment Funds Law of 2014 (the “AIF Law”) which was enacted by the Cyprus House of Representatives on 10/07/2014 and was published in the Official Gazette of the Republic of Cyprus on 25/07/2014. The AIF Law repeals the International Collective Investment Schemes Law 47(I) 1999 (the “ICIS Law”) the former legislative framework for investment funds, which has been in place since 1999.

Under the AIF Law, AIFs’ authorisation, on-going operations, transparency requirements and supervision are regulated by the Cyprus Securities and Exchange Commission (“CySEC”).

An AIF is a collective investment undertaking which:

- raises external capital from a number of investors,
- with a view to investing it in accordance with a defined investment policy for the benefit of those investors, and
- has not been authorised as a UCITS.



There are two types of AIFs, the main characteristics of which are outlined below:

Alternative Investment Fund		
	AIF with Limited Number of Persons	AIF with Unlimited Number of Persons
Regulatory Authority	CySEC	CySEC
Limitation on Number of Investors	75	Not applicable
Available Structures	Variable Capital Company (VCC), Fixed Capital Company (FCC), Limited Partnership (LP)	Variable Capital Company (VCC), Fixed Capital Company (FCC), Limited Partnership (LP), Common Fund (CF)
Umbrella Funds	Possible for all structures	Possible for all structures
Minimum Share Capital	Not applicable	€125,000 or €300,000 if self-managed
External Manager Licensing Requirement	Yes, if dealing with investments in financial instruments	Yes
Directors Requirements	Fit and Proper	Fit and Proper
Investors	Well-informed and/ or professional investors	Retail or well-informed and/or professional investors
Investment Restrictions	Up to €100m including leverage or €500m with no use of leverage and no redemption rights for 5 years.	No restrictions if AIFM appointed, or Up to €100m including leverage or €500m with no use of leverage and no redemption rights for 5 years if no AIFM appointed.
Custodian Requirements	Based in Cyprus, EU or third country that has cooperation agreement with Cyprus; exemption in specific circumstances	Mandatory appointment of local depository is managed by an AIFM. Cyprus, EU or in third country based if AIFM not appointed

Main features of the AIFs:

- Umbrella structures with multiple investment compartments are allowable (segregation/ring-fencing of assets and liabilities, management of different pools of assets with diverse investment policies);
- Option to make public offerings of shares/units of AIFs;
- Possibility of listing;
- Low taxation;
- Flexible regulatory regime;
- Low capital and ongoing maintenance requirements.

Alternative Investment Fund Manager (AIFM)

On 5th July 2013 Law 56(I)/2013 (AIFM Law) came into effect transposing the AIFMD into Cyprus legislation. The AIFM Law closely follows the context of the AIFMD and sets out the legal framework that will apply to an AIFM with regard to authorisation, capital requirements and operating conditions, governance and risk management, delegation rules, remuneration, reporting, depositary regime and marketing conditions.

The accompanying detailed AIFMD implementing measures and technical rules adopted by the European Commission which substantiate the framework directive take the form of EU Regulations and as such are directly applicable in Cyprus, without the need for any local transposition. The competent authority for regulating and supervising AIFMs under the AIFM Law is the Cyprus Securities and Exchange Commission (CySEC)

The AIFM Law shall apply in particular to the following activities:

- A Cyprus AIFM managing Cyprus AIFs or AIFs of another Member State or third country;
- An EU or third country AIFM managing Cyprus AIFs;
- A Cyprus AIFM marketing units or shares of AIFs they manage in other Member States or third countries;
- An EU or third country AIFM marketing units or shares of AIFs they manage in Cyprus.

The Product Test – identify the AIF

The AIFM Law defines an AIF

The following are specifically excluded: holding companies, joint ventures, securitisation special purpose entities, pension funds, employee participation schemes or employee savings schemes, and family office vehicles.

The Manager Test – determine the AIFM

An investment fund manager offering services to AIFs shall be authorised as a Cyprus AIFM if:

- its head and registered offices are located in Cyprus;
- it is a legal person whose regular business is managing one or more AIFs irrespective of their legal form and whether they are established in the EU or not, open-ended or closed-ended, listed or non-listed, etc.; and
- the aggregate of the assets under management (AuM) of all AIFs managed by the investment fund manager exceeds:
 - (i) EUR 100 million (including leverage), or
 - (ii) EUR 500 million (for unleveraged funds but with a lock-up period of 5 years).

The Regime Test – Registration vs the possibility to opt in

Investment fund managers whose aggregate AuM do not exceed the thresholds are exempt from authorisation, but are however subject to registration and reporting requirements in their home Member State. Meanwhile, such managers established in Cyprus may elect to opt-in to authorisation under the AIFM Law. Grand-fathering provisions apply under certain circumstances for closed-ended AIFs, being:

- (i) Closed-ended AIFs which are fully invested as of 22nd July 2013;
- (ii) Closed-ended AIFs that are fully subscribed as of 21st July 2011 and whose term expires by 22nd July 2016 are only subject to reporting requirements

A Cyprus AIFM may be authorised to perform the following functions:

- Portfolio management;
- Risk management;
- Administration;
- Legal and fund management accounting services;
- Customer inquiries;
- Valuation and pricing, including tax returns;
- Regulatory compliance monitoring;
- Maintenance of unit/shareholder register;
- Distribution of income;
- Issues and redemptions of unit/shares in the AIF;
- Contract settlements, including certificate dispatch;
- Record keeping;
- Marketing services; and/or
- Activities related to the assets of the AIF, namely services necessary to meet the fiduciary duties of the AIFM, facilities management, real estate administration activities, advice to undertakings on capital structure, industrial strategy and related matters, advice and services relating to mergers and the purchase of undertakings and other services connected to the management of the AIF and the companies and other assets in which it has invested.

Additional Investment Services

Subject to compliance with the relevant MiFID rules without separate MiFID authorisation being required, an external AIFM may also be authorised to provide the following MiFID services:

- (individual) management of portfolios of investments including those owned by pension funds
- and institutions for occupational retirement, in accordance with mandates given by investors on a discretionary, client-by client basis;
- and (once individual portfolio management is provided, then it may further be authorised to provide) investment advice;
- safe-keeping and administration in relation to shares or units of collective investment undertakings;
- reception and transmission of orders in relation to financial instruments.

An external AIFM may in addition obtain a license to act as a UCITS management company subject to authorisation under the UCITS IV Directive (2009/65/EC).

Share Capital Requirements

	Internally Managed AIF	External AIFM
Initial Capital	€300.000	€125.000
Plus: Additional Own Funds	0,02% of the amount by which the value of the AuM of the AIFM exceeds €250 million. Maximum total of €10 million. At all times, shall never be less than 25% of the preceding year's fixed overheads.	
	Either: <ul style="list-style-type: none">• Additional Own Funds equal to 0,01% of the AuM, valuing derivative at market value. CySEC may lower to 0,008% on the basis of historical loss data for a 3-year period or may increase if not satisfied that the AIFM has sufficient funds; or• Professional Indemnity Insurance covering 0,9% of the AuM for claims in aggregate per year, and 0,7% of AuM per individual claim; in such case the AIFM would need to maintain own funds that are equivalent to the value of the excess under the policy.	

Our Services

Through our specialised team and network of partners we can offer the following services for AIFs and AIFMs:

- Preparation of the licensing application package, submitting to CySEC and liaison with CySEC throughout the application and activation process ;
- Advise on how to better structure your operations in order to meet the regulatory requirements while at the same time achieve cost efficiency;
- Assistance in obtaining a licence for additional services, if required;
- Assistance for setting up a branch abroad or offering services cross border;
- Fund Administration services;
- Domiciliation and Client Communications Agent;
- Transfer Agent services;
- Internal audit services;
- External Audit services;
- Compliance Officer services;
- Risk Manager services;
- Regulatory Reporting and on-going support for regulatory compliance;
- Direct and indirect tax services;
- Immigration Services;
- IT setup and maintenance services.
- Corporate recruitment services