



On 25 June, 2013 the Malta Financial Services Authority (MFSA) issued the final implementing measures for Malta's transposition of the Alternative Investment Fund Managers Directive (2011/61/EU) (AIFMD). The MFSA has been accepting applications for existing fund managers wishing to upgrade to full AIFMs since the issuance of the questionnaires on the 10th May 2013 making it one of the first European Union member state regulators to begin processing AIFMD compliant applications for hedge fund managers and alternative funds managers managing AIFs.

Today's publication of the final implementing measures means that **not only is Malta one of the first jurisdictions to publish its final set of AIFMD implementing measures** but also that applications from start-up alternative investment fund managers are now also being accepted.

A copy of Malta's AIFMD implementing measures can be obtained from the Malta Financial Services Authority's dedicated AIFMD page [here](#). The MFSA will be hosting an industry update on 27 June, 2013 to officially launch these new rules and guide the industry through the changes since its consultation papers. The MFSA is also in the process of uploading an FAQ on Malta's implementation of AIFMD and a guide to establishing AIFMs in Malta each of which will be available from the [MFSA's dedicated AIFMD page](#).

Below are a few highlights following an initial review of the final implementing measures:

Full use of AIFMD transitional periods by Malta

Malta is availing itself of the following transitional periods under AIFMD:

- The full 1 year transitional period until 22 July, 2014 for existing fund managers / self-managed funds to upgrade their licence into full AIFMs / self-managed AIFs or de minimis AIFMs.
- Non-EU fund managers may continue to manage / market without a passport non-EU AIFs / EU AIFs without requiring full AIFMD compliance until 2015.
- Malta based AIFMs and AIFs are allowed to engage both local depositaries as well as a depositary that is a credit institution in another EU Member State. This derogation will last until 22 July, 2017.

Retention of Malta Professional Investor Fund Regime

Malta's successful Professional Investor Fund regime (Experienced, Qualifying and Extraordinary) has been retained and refined and will continue to be available not only to de minimis fund managers and non-EU AIFMs but also to EU AIFMs. Where an EU AIFM is to manage a Maltese PIF then the AIFM would need to structure the PIF accordingly in order to achieve AIFMD compliance. PIFs managed by EU AIFMs that are in conformity with AIFMD will be allowed to passport.

Retention of current regime for fund managers for de minimis AIFMs

The popular local regime for fund managers has been retained largely unchanged and will be available to de minimis fund managers.

Launch of new Malta Alternative Investment Fund Regime alongside PIF Regime

Alongside the Maltese Professional Investor Fund regime, a new AIF regime has been launched. The Alternative Investor Fund allows AIFMs (or promoters wishing to set-up a self-managed AIF) a plug-and-play solution to achieving AIFMD compliance with a fund regime that also bears the "AIF" brand.

Passporting of MiFID ancillary services by AIFMs

The MFSA has announced that Maltese AIFMs additionally authorised to provide discretionary portfolio management services will be permitted to passport these MiFID services into other EU Member States. The MFSA, however, noted that in line with the EU Commission's statement in the AIFMD Q&A published earlier this year there may be other EU Member States that take a more restrictive approach.

No look-through as regards AIFMD remuneration policies for sub-managers

The MFSA has announced that although it has implemented ESMA's guidelines on remuneration policies, it has decided not to transpose ESMA's controversial guideline that AIFMs should be required to impose equivalent remuneration policies and restrictions on its sub-managers and other delegates.

Signed Co-operation Agreements

The MFSA announced that it is a party to 34 AIFMD compliant co-operation agreements negotiated by ESMA on behalf of all 27 EU securities regulators with third country regulators including Brazil, Canada, Dubai, Hong Kong, India, Israel, Singapore, Switzerland (FINMA) and the USA. [Click here for a full list](#) of the co-operation agreements negotiated by ESMA.

The MFSA have a meeting on 27th June 2013 for local lawyers and market participants. One of our team will be present.

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