

## KEY FACTS NOTIFIED AIFS

AS ONE OF THE EARLIEST ADOPTERS OF THE EU'S AIFM DIRECTIVE IN 2013, MALTA HAS SOUGHT TO PROVIDE A COMPELLING ROUTE TO MARKET FOR SMALLER AND EMERGING HEDGE FUND MANAGERS. IN 2016 THE MALTA FINANCIAL SERVICES AUTHORITY (MFSA) ANNOUNCED THE LAUNCH OF A NEW INVESTMENT FRAMEWORK TO ASSIST THIS – THE NOTIFIED AIF OR NAIF.

### MALTA NOTIFIED ALTERNATIVE INVESTMENT FUND (NAIF)

A NAIF can only be managed by a full-scope Alternative Investment Fund Manager (AIFM), domiciled in Malta or another EU member state (or outside the EU subject to third-country management passport rules), and is therefore indirectly supervised by the competent supervisory authority of its AIFM and able to make use of the AIFM passport for marketing to EU qualifying or professional investors on a cross-border basis. In addition, the NAIF may accommodate any type of investment strategy, provided that assets are financial assets, and not real estate. NAIFs allow the creation of fully segregated compartments through the use of an umbrella structure.

### BENEFITS OF USING A NAIF

- > Short time to market – within 10 business days from the date of filing of a complete notification pack, the MFSA will proceed to include the AIF in the List of Notified AIFs
- > No prior authorization by the MFSA and not subject to ongoing supervision
- > Easy to understand and with reduced costs
- > Unregulated vehicle managed by an authorised AIFM
- > Investor protection ensured by full compliance with the AIFMD regime
- > Benefits from the AIFM marketing passport and may be used to raise capital across the EU
- > Attractive and flexible tax regime
- > NAIFs may be structured as an umbrella vehicle with ring-fenced compartments
- > Suitable for a wide range of uses, provided it is not used as a loan fund
- > Legal structuring flexibility – may be set up as a SICAV, INVCO, incorporated cell company, RICC, limited partnership, unit trust or contractual fund

### MAIN FEATURES OF A NAIF

#### No MFSA Supervision

- > NAIFs can be launched without the prior authorisation of the MFSA and are not subject to its ongoing supervision, significantly reducing the time to market.
- > Indirect supervision is ensured as the NAIF must be managed and monitored by an authorised AIFM subject to supervision by its competent authority.

#### Managed by an Authorised AIFM

- > The NAIF regime is reserved for AIFs that are managed by an external authorised AIFM that may be domiciled in Malta or in another EU member state or, subject to third-country management passport rules, by a third country authorised AIFM.

- > The AIFM must ensure that before submitting a notification request, the AIFM shall carry out the necessary due diligence process to ensure that the service providers and governing body of the AIF are fit and proper as specified by the competent authority.

#### Access to AIFM Marketing Passport

- > As it is fully compliant with AIFMD, a NAIF can make use of the AIFM passport for marketing to EU qualifying and professional investors on a cross-border basis.

#### Service Providers

- > NAIFs need to entrust the custody and safekeeping of the fund assets to a depositary based in Malta and appointed in accordance with AIFMD requirements.
- > The annual accounts of NAIFs must be audited by an independent statutory auditor.
- > The fund administration of a NAIF needs to be located in Malta.

#### Legal Structuring Flexibility

- > NAIFs may be set up either as a common fund in a contractual form or as an investment company with variable/fixed capital (SICAV/INVCO) structured under any of the legal forms provided for in the Maltese Companies Act:
- > An official list of NAIFs is also maintained by the MFSA.
- > NAIFs may be structured as an umbrella vehicle with ring-fenced compartments and may be closed-ended or open-ended.

#### Attractive and Flexible Tax Regime

- > Two tax regimes are available for NAIFs:
  - > NAIFs are by default subject to the same tax regime as Professional Investor Funds
  - > NAIFs may take advantage of Malta's 70-plus double tax treaties

#### THE NOTIFICATION PROCESS

Although the NAIF is not subject to the standard licensing procedure, it is still subject to a Notification process:

- > The board of directors of the NAIF shall approve a resolution certifying that the Offering Documents of the NAIF satisfy the minimum criteria as prescribed by the MFSA;
- > A written request by the AIFM in respect of a NAIF – and its sub-funds, if any – to be included in the list of Notified AIFs in the form and manner as required by the MFSA;
- > The AIFM shall submit the duly completed written notification together with the accompanying documents within 30 calendar days from the date of the board of directors resolution of the of the NAIF whereby approving the NAIF's Offering Documents and prior to the effective date of the Offering Documents; and
- > The competent authority should include the AIF in the List of Notified AIFs within 10 working days from the date of filing of the notification request together with the completed required documentation.

#### REGULATORY FEES

- > Regulatory fees comprise of a non-recurring Application fee payable on submission of the Application for a NAIF and an annual notification fee which is due on the anniversary of the licence being granted.
- > Application fee
  - > €2,000 for each NAIF
  - > €1,000 for each NAIF sub-fund

- > Annual notification fee
  - > €2,000 for each NAIF
  - > €600 for each sub-fund

#### HOW WE CAN ASSIST

Trident Fund Services (Malta) Ltd is a recognised Fund administrator regulated by the Malta Financial Services Authority pursuant to the Investment Services Act, 1994. We have broad experience in handling the administration of a variety of fund structures and can provide the following services:

- > Assistance with the licensing of a fund in Malta including liaison with the MFSA, legal advisors and other parties
- > Incorporation of the fund and the fund manager
- > Provision of registered office and local directors
- > Preparation of net asset value calculations
- > Preparation of interim and annual financial statements
- > Transfer agency services
- > Company secretarial services
- > Administration services and coordination of the year-end audit

#### FUND ADMINISTRATION FEES

Please complete our Fund Establishment Worksheet which provides a summary of the administration services that we offer. On the basis of a completed worksheet and proposed offering memorandum we will provide you with a fee estimate for the establishment and annual administration costs of the proposed fund.

Do not hesitate to contact us should you have any questions regarding our fund administration services or in connection with the completion of the worksheet.

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