

## ANNOUNCEMENT

### Information provided by market participants regarding the legal framework applicable to Registered AIFs

The Cyprus Securities and Exchange Commission (“CySEC”) notes that it has come to its attention that market participants make use of false/misleading communication or promotional material about the Registered AIFs (“RAIFs”) operation, and wishes to stress the following:

RAIFs are AIFs<sup>1</sup> which may operate as ‘registered’ AIFs subject to Part VIII of the Alternative Investment Funds Law of 2018 (“the AIF Law”). According to the relevant provisions in the AIF Law, RAIFs can only be externally managed by an authorised Manager<sup>2</sup>, marketed to professional and/or well informed investors, and their fund rules or instrument of incorporation must expressly provide that they are subject to the provisions of Part VIII of the AIF Law.

Despite RAIFs not requiring authorisation by CySEC, in order to operate they must be registered in the “RAIFs Register” maintained by CySEC, in accordance with article 138 of the AIF Law.

In order to register a RAIF in the RAIFs Register, their Manager has to file with CySEC an application for registration, accompanied by the documents and data required by article 138(2) of the AIF Law, and following the procedure of [CySEC Directive DI124-01](#) regarding the registration of RAIFs in, and deletion from, the RAIFs Register. To this end, a Circular [C285](#) has also been issued by CySEC.

In accordance with article 10 of the Alternative Investment Fund Managers Law of 2013, as amended, (“the AIFM Law”), *‘An AIFM<sup>3</sup> of the Republic, before implementation, shall notify the Commission, of any material changes to the conditions for initial authorisation, in particular material changes to the information provided in accordance with article 7’.*

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<sup>1</sup> In accordance with the definition of the term “AIF” in article 2(1) of the AIFM Law, which was also used in the AIF Law, AIF means any collective investment undertaking, which –

- (a) raise 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
- (b) do not require authorisation as a UCITS.

For more guidance as to the meaning of the term AIF, ESMA has issued the [Guidelines on key concepts of the AIFMD \(ESMA/2013/611\)](#) which were adopted by CySEC and are applicable since 13.10.2013, explaining the meaning of the terms “collective investment undertaking”, “raising capital”, “number of investors” and “defined investment policy”.

<sup>2</sup> As per the relevant article 135(1) and (2) of the AIF Law.

<sup>3</sup> “Alternative Investment Fund Manager” as defined in article 2(1) of the AIFM Law.

Furthermore, an AIFM of the Republic applying for authorisation shall provide to CySEC the information of paragraphs (a) – (e) of article 7(2) of the AIFM Law, which reflect the information submitted to CySEC for the registration of RAIFs, as per article 138 of the AIF Law.

Based on the above, CySEC stresses that **despite RAIFs are not authorised by CySEC, they are indirectly regulated through their Manager, which has to comply with the provisions of the AIFM Law (or other relevant provisions of the legislation, if not an AIFM) and of the AIF Law in relation to the principles of risk management, conflicts of interest, liquidity management, remuneration, valuation, the appointment of depositary and the exercise of due diligence to ensure that RAIF investors' rights are protected.**

**Therefore, any references to “unregulated structures” used in communication/material for the promotion of RAIFs give a false impression and should be revised and amended.**

Nicosia, 29 November 2018

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