New Law on Collective Investment Undertakings in Albania

Albanian Parliament recently enacted a new Law on collective investment undertakings which entered into force on June 20th, 2020. This new law, lays down uniform rules on investment funds, organization and functioning of Undertakings for Collective Investment in Transferable Securities (“UCITS”) and sets out the legal framework for the authorization, supervision and oversight of Alternative Investment Funds (“AIF”). The act is partially approximated with the respective EU Acquis.

What are investment funds and how are they regulated?

The term “undertaking for collective investment in transferable securities” refers to an undertaking (or simply an investment fund) which invests in securities, i.e. in stocks, bonds, stocks and bonds, short term treasury instruments, cash etc., whilst an Alternative Investment Fund is an investment scheme designed mainly for qualified investors and include hedge funds, private equity funds, real estate and a wide range of other types of institutional funds. The law requires the funds as the name suggests, to exclusively invest in securities, to be an open fund allowing investors at any time to withdraw their money and to leave the fund, and to distribute its investments across a large number of different securities in order to reduce the risks associated with the various investments.

Organization of the investment funds and objective of the law

The law stipulates that UCITS will be mainly organized either as investment funds; joint stock companies or a limited partnership. The obligation is for these structures to be recognized and duly licensed by the Financial Supervisory Authority (“FSA”) and to obtain such recognition, UCITS and AIFs have to hold a minimum level of capital in the form of liquid or short-term assets.

As far as the tax regime is concerned, unless otherwise provided by law, the UCITS, for tax purposes, is considered the owner of the securities and assets under its administration.

In particular, this law aims to:

• offer investors a wider choice of product at lower cost through a more efficient market;
• better investor information;
• more efficient funds supervision; and
• build a competitive investment sector by setting out new and adjusting existing rules to market.

All UCITS, AIFs and their subsidiaries licensed or recognized by FSA become part of a dedicated register.
**Exclusions from scope**

The law lists a large number of entities to which it does not apply, including:
- holding companies (as defined in the law);
- management of pension funds;
- employee participation or savings schemes;
- Local Government Units;
- second tier banks and the national central bank; and
- insurance contracts etc.

**Compliance rules**

Pursuant to the law, considering that these investment funds will be offered to investors, they must be authorized and will be constantly monitored by the Financial Supervisory Authority.

The companies are required to guarantee the FSA of the sustainability of their internal arrangements with respect to risk management. This includes a requirement to disclose, on a regular basis, the main markets and instruments in which they trade, their principal exposures and their concentrations of risk.

In order to encourage diligence amongst their investors, the investment funds managers are required to provide a clear description of their investment policy, including descriptions of the types of assets and the use of leverage. On such a note, the law contains as an annex the Key Investor Information which is a short document that aims to simplify and standardize the basic information provided by the investment fund undertaking to the investors. The accuracy and standardization of the provided information helps investors identify differences between investment funds and compare them.

In order to promote normal continuity of business of undertakings already operating in the sector, it is allowed for such undertakings to maintain their current license for a certain time period while requiring compliance with this new law and investment activities that safeguard investor interests.

The competences of the FSA are further increased by having a broad authority to authorize this particular business activity but in turn must take into account the rules of the common fund or the instruments of incorporation of the UCITS and the ability to manage the investment funds. Where the management company is established in another State, the FSA should be able to rely on an attestation, issued by the competent authorities of the management undertaking home State, regarding the type of the management fund and its characteristics.

**Repeal of existing legislation**


For further, more detailed information, please contact us.