
CLIENT NOTE

Armenian Investment Funds Outlook: True Regulatory Heaven Everyone is Looking for



Overview

The Law on Investment Funds (adopted in December 2010 and taken effect in January 2011) (the “Law”) sets out a long-awaitedⁱ regulatory regime for the registration and operation of investment funds and fund managers in Armenia.

Over the past few years, there is an increased interest towards the regulatory regime applicable to investment funds in Armenia. This client note provides a quick overview of the key reasons for such interest.

The Law regulates both public and private funds and basically represents a lighter version of experience of a number of EU member states (e.g. Baltic countries, Luxembourg, etc.) that have implemented UCITS Directiveⁱⁱ and AIMF Directiveⁱⁱⁱ. Not only the regulatory regime has become appealing, but also (and quite understandably) the taxation regime made available for the funds registered in Armenia.^{iv}

Of a particular interest for foreign and local fund managers is the regulation of non-public contractual funds. Indeed, the exemption available under the Article 1(2) of the Law as well as a follow up regulatory infrastructure put in place by the regulator (the Central Bank of Armenia) open up tremendous opportunities for the fund managers operating not only in the Eurasian Economic Union space, but also outside.

Non-Public Funds

Non-public funds are defined as funds the shares/units of which cannot be distributed publicly. In order for a fund to qualify for the non-public regime, the fund investors should not exceed 49 (once the threshold is exceeded, the fund shall have to re-register with the regulator as a public fund).

Armenia IS a regulatory heaven for investment funds

Pursuant to the Article 1(2) exemption, the Law applies to non-public funds only to a very limited extent, particularly focusing on the registration process. It is not required for the non-public fund to have a separate custodian. A non-public fund is required to have a manager, which, however, is not subject to mandatory licensing requirements. The registration of the fund is carried out with the Central Bank of the Republic of Armenia and generally takes around 30-45 days.

Until very recently, there were almost no regulatory reporting obligations for the non-public funds and unlicensed non-public fund managers. Starting from 01.09.2018, non-public funds are subject to “light” reporting requirements.

The fund may raise funds through allocation of units and attraction of debt financing^v (e.g. attraction of loans and allocation of bonds).



Taxation

One of the key “selling points” of the “Armenian structure” is the taxation of the funds and investments and divestments into the fund. Particularly, pursuant to Article 108(1)(13) of the Armenian Tax Code, any income received from the holding of securities of an investment fund is not treated as corporate income and, thus, is exempt from taxation^{vi}. A similar exemption is available for the individuals (Article 149) (except for dividends, which are taxable for individuals).

At the same time, the fund itself is taxed at an annual rate of 0,01% on the fund’s net asset value.^{vii}

The management of the fund, as well as custodial services provided to the investment funds, are exempt from the value added tax (Article 64). Management fee (as well as the carried interest) are taxable at the manager level at a 20% corporate tax rate.



Registration

As discussed above, registration of the contractual non-public fund (registration of its rules) is a relatively straightforward procedure and does not require having a licensed fund manager and custodian.

In addition, a new procedure for online registration of contractual investment funds has been lately introduced, which simplifies the procedure and provides for a set of advantages (e.g. possibility to denominate the fund shares/units in foreign currency^{viii} and to choose foreign law as governing law applicable to relations between the fund and its investors, regardless of the origin of the investors).

Total fees for registration of the contractual non-public fund via online platform is AMD 240,000 (around USD 500).

How we can help

Our team has an extensive experience in providing “turn-key” services to the clients willing to set up and operate both public and non-public investment funds in Armenia.

Our team (composed of lawyers and financial specialists) has deep knowledge and understanding of not only corporate and commercial aspects of the funds, their investors and fund managers, but also a policy rationale that has been put behind the existing regulatory framework. Moreover, our long-lasting cooperation with partner entities (tax

advisors, providers of accounting services, foreign law firms, etc.) enables us to offer a broader scale of services and provide our clients with complete services related to registration and operation of investments funds in and outside Armenia.

Around 40% of all the investment funds operating in the country have been using our services.

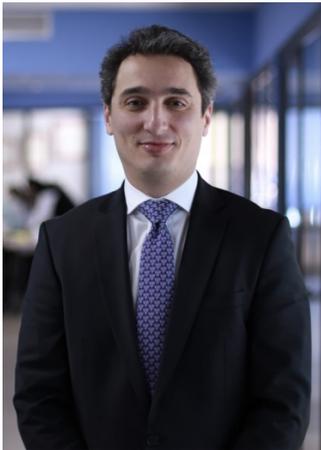
We would love to assist you in setting up and running your investment fund in Armenia.

Please do get in touch.

NOTE: This material is for general information only and is not intended to provide legal advice.

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ⁱ Regulation on investment funds existed in different forms since 1994. In an attempt to catalyze domestic capital markets after the privatization, in 1994 the Government of Armenia has adopted a Decree on Investment Funds. However, the industry had hard times to pick up until the 2010 Law was adopted. Since then, a number of public and private investment funds have been registered by the regulator.

ⁱⁱ Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS).

ⁱⁱⁱ Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.

^{iv} The profit tax applicable to the funds is 0,01% on the net asset value (annually). Investments into and divestments from the fund are exempt in Armenia. Management of the fund is exempt from value added tax.

^v The Central Bank is cautious about the leverage of funds, which policy is familiar to us due to our expertise in this field.

^{vi} Similarly, any expenses related to acquisition of securities of an investment fund are not excluded from the tax base (Article 112).

^{vii} The calculation of the fund's net asset value is carried out in accordance with regulations of the Central Bank of Armenia.

^{viii} In order for the fund to be able to denominate its units in foreign currency, payments against fund shares/units shall not be made in cash.