

## Legal Alert

### Alternative Investment Companies

### Time for regulation of the private equity/venture capital market

*February 2017*

**Introduction of investment vehicles in the form of Alternative Investment Companies revolutionises the domestic market of private equity and venture capital funds. The funds, which so far have operated in the form of Polish commercial partnerships and companies, should adapt to the new requirements by 4 June 2017. Importantly, this obligation also applies to entities that use alternative methods of raising capital, such as crowdfunding.**

The amended Act on investment funds and management of alternative investment funds imposes an obligation on private equity and venture capital funds operating in the form of Polish partnerships companies and financed by domestic investors, including those that acquire shareholders for investment purposes, e.g. through crowdfunding, to submit to the supervision of the Polish Financial Supervision Authority (KNF). Pursuant to the new regulations, these entities have to obtain the status of Alternative Investment Companies (AICs).

#### What obligations does the Act introduce?

The Act provides for two AIC operating models. The first one is the form of internally managed funds, which is reserved for Polish joint-stock companies and limited liability companies. The other form are AICs with an external manager – Polish limited partnerships and limited joint-stock partnerships. In both cases, the Act introduces an obligation either to obtain an authorisation or to register in the register of AICs managers. In order to obtain an authorisation, a number of obligations have to be met. The most important are: requirements imposed on the Management Board and the Supervisory Board of the AICs manager, the requirement to appoint a depositary, investment advisor, establish internal control system (including compliance), as well as special rules for asset valuation, marketing AICs, remuneration policy and outsourcing. Less stringent requirements are imposed on AICs managers operating on the basis of an entry in the register. In both cases, it will be necessary to meet anti-money laundering and counter-financing terrorism obligations.

#### What regulatory model will apply?

The criterion determining the obligation to apply for an AICs management authorisation or to be registered as an AIC manager is the value of assets under management. In principle, if the value of assets under management exceeds EUR 100 million, the AIC managers are obliged to obtain an authorisation. Below this threshold, an entry in the register will be sufficient. Such entities, however, are not allowed to provide services on a cross-border basis – under the so-called passport – as this possibility is reserved for AICs managers subject to an authorisation.

Considering the realities of the Polish market, most AICs will operate based on an entry in the register. The register is public, with details available [on the website of the Office of the Polish Financial Supervision Authority \(KNF\)](#).



#### Contact us

For additional information, please contact:

**Ewa Szlachetka**  
Partner  
T: +48 22 50 50 787  
ewa.szlachetka  
@eversheds-sutherland.pl

**Paweł Dudojc**  
Lawyer  
T: +48 510 08 77 85  
pawel.dudojc  
@eversheds-sutherland.pl

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