

Perspectives for Specialised Funds in Lithuania

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Future-be amendments to Lithuanian laws shall open new promising opportunities for investors and investees in Lithuania.

Investment funds are relatively new in Lithuania as the Law on Collective Investment Undertakings was only adopted in 2003. Therefore, since then we have been establishing and investing in investment funds using the form of collective investment undertakings, which activities are regulated under UCITS (Undertakings for the Collective Investment of Transferable Securities) directives, for a few years. Unfortunately, Lithuanian laws so far do not provide for regulation on establishment and investment in specialised funds, which operate in the majority of EU members. However, the Lithuanian Securities Commission has already prepared respective draft amendments on the Law on Collective Investment Undertakings introducing investment possibilities to invest in specialised funds, too. Therefore, this article will provide readers with the main information about specialised funds industry, as well as highlights most important tendencies thereof in Lithuania. The description of specialised funds is mainly taken from the reports of the expert groups established by EU Commission on investment fund market efficiency and alternative investment in Europe.

Importance of Private Equity. The said report of the private equity group emphasizes importance of private equity and its contribution to increasing European competitiveness and commercialising innovation; to strengthening company governance and management; and to preparing companies for further growth and public offer.

The terminology concerning private equity is worldwide rather ambiguous. In Europe the terms “venture capital” and “private equity” or “risk capital” are often used interchangeably. Private equity industry includes venture capital for start up businesses and early stage companies; later stage expansion capital; and buy-outs. Meanwhile, in the USA private equity covers buy-outs, while venture capital is limited to the European understanding of venture capital and expansion capital only.

Private equity is different from other ways of investing: venture capital is focussed on young, entrepreneurial companies; expansion capital finance is provided to purchase holdings in existing, generally profitable companies, buy-outs are typically majority investments made in companies together with management.

Sophisticated Hedge Funds. Hedge funds is another means of specialised investment. Definitions of hedge funds run into problems, however, as a starting point, a rather typical definition of a hedge fund could be: “a hedge fund is a loosely regulated investment company that charges incentive fees and usually seeks to generate returns that are not highly correlated to returns on stocks and bonds” (*Stuart A. McCrary. Hedge Fund Course. 2005. P.1*).

Hedge funds can be best described by their main characteristic: they are more flexible in terms of investment options or strategies than traditional collective investments; their nature is international. The main driver of the success of hedge funds is the recognition of their benefits to the financial system by providing risk diversification

and to individual portfolios by providing positive and less volatile returns. Hedge funds importantly contribute to financial innovation.

Do EU and EU members regulate Specialised Funds? As to legislation, according to the reports while there is no specific EU level regime governing the regulatory approach to the private equity sector, most EU members regulate part or all of the private equity value chain. There are a number of EU directives which affect the private equity sector, although none is specifically aimed at the private equity industry.

Some EU members have established authorisation regimes for hedge funds. Thus, although they present some common features, these regimes considerably vary from one EU member to another. This regulatory fragmentation creates a barrier to the cross-border distribution of hedge funds. In particular, the group recommends that regulators do not seek to control sales and distribution through product regulation or registration.

Specialised Investment Funds are coming to Lithuania. As mentioned in the introductory part of the article, draft amendments to the Law on Collective Investment Undertakings regarding establishment and operating of specialised funds have been prepared by Lithuanian Securities Commission.

The Lithuanian Securities Commission introduces specialised investment funds such as real investment funds, private equity, alternative funds and others. It offers common principles of regulation of specialised funds in general and provides for rules on each particular fund as well.

The specific regulation is foreseen for private equity. The main distinctiveness of private equity shall be its preference for new or acting unquoted companies. Alternative investment funds (adequate to hedge funds) will be intended for professional investors only.

The Lithuanian Securities Commission shall determine specificity of real estate funds, too. Real estate funds shall invest into land, buildings, securities of real estate companies etc. However, several restrictions related to objects for investment shall be established, for example, it will not be possible to invest into real estate objects disposition whereof is restricted. It should be noted that at least two licensed real estate estimators would have to value the property for investment. The final term for diversification of portfolio of real estate fund is suggested to be four years.

Therefore, the specialised fund industry should provide us with attractive opportunities to establish and to invest to specialised investment funds, as it is in other EU members.