CIFA is Granted EFAMA Observer Status

By Mr. Angelos M. Gregoriades, BSc, FCA
Chairman of CIFA

The Cyprus Investment Funds Association (CIFA) is happy to announce that the Board of Directors of the European Fund and Asset Management Association (EFAMA or Association) has unanimously approved CIFA’s application for membership at its Annual General Meeting held in Bucharest, Romania, on 13 June, 2014. As a result of this vote, CIFA has been granted the status of ‘Observer’.

This achievement marks a significant milestone in CIFA’s work in promoting the Cyprus funds industry globally and provides a vote of confidence in Cyprus as a fund and asset management centre. It acknowledges the sector’s ability to adopt changing legislative requirements and provide future growth for the Cypriot economy.

Who is EFAMA?

EFAMA is the representative association for the European investment management industry. Through its 27 National Association Members, 62 Corporate Members and 25 Associate Members, EFAMA represents about EUR 17 trillion in assets under management – 1.5 times the GDP of the EU – of which EUR 9.8 trillion is managed by 55,000 investment funds as of December 2013. Its Board of Directors is comprised of its President and Vice President, together with representatives from the 26 full National Association Members and 7 Corporate Members.

It should be mentioned that the Malta Funds Industry Association is the only other national association who currently holds the ‘Observer’ status along with CIFA, which such status was granted in late 2011.

EFAMA was first founded in 1974 by Belgium, France, Germany, the Netherlands, Ireland, Italy and the United Kingdom under the name “European Federation of Investment Funds and Companies”. It renamed itself EFAMA in 2004 after a decision to change its Constitution to represent the investment fund and asset management industries, and to welcome direct corporate membership in addition to its national association members.

EFAMA’s mission is:

- To support investor confidence in the asset management industry through the promotion of governance standards, integrity, professionalism and performance throughout the industry;
- To enhance the smooth functioning of a European single market for investment management and a level playing field for saving and investment products;
- To strengthen the competitiveness of the industry in terms of cost and quality;
- To promote the asset management industry and the UCITS brand on a European and worldwide level.

EFAMA has been instrumental at shaping EU regulation governing, among others, Undertakings for Collective Investment in Transferable Securities (UCITS) funds, UCITS Management Companies, Alternative Investment Fund Managers (AIFMs), and investment firms authorised under the Markets in Financial Instruments Directive (MiFID). It has

1 “EFAMA underlines industry challenges and achievements at AGM in Bucharest” dated 13 June 2014; www.efama.org

2 www.efama.org
consistently acted as the voice of the European fund and asset management industry, working hard to ensure that decisions taken at an EU level will result in achieving a healthy balance between regulatory requirements, investor protection, innovation as well as operational and cost efficiencies.

**What does this mean for CIFA?**

As an Observer, CIFA will be invited to attend meetings and will be provided with information relating to the Association as detailed in the Association’s Rules of Procedure. It will not, however, be given voting rights in the general meeting and will not be represented in the board of directors and in the other bodies of the Association. The Observer status is granted for a transitional period of two years (which such period may be prolonged by a decision at a General Meeting), which means that our candidacy will be re-examined at a future date in order to determine whether we shall be granted status as a full National Association Member.

Achieving full National Association Member status would mean that CIFA would be able to benefit from:

- Representation on the Board of Directors of EFAMA;
- Representation at EU Commission level for all developments affecting the EU investment management industry;
- Participation in discussions about key industry issues, seeking common standards, developing best practice recommendations;
- Raising of professional practice standards in Cyprus;
- Participation in organised industry initiatives and in the publication of Guidelines to the industry;
- Remaining abreast of developments in the fund industry by participating in EFAMA meetings, conferences and seminars.

I would like personally, as well as on behalf of the Board, to reiterate CIFA’s commitment to promote Cyprus as an attractive destination for the establishment and operation of both collective investment schemes and asset managers. We would also like to thank our members, industry professionals, the Cyprus Investment Promotion Agency, the Ministry of Finance, the Central Bank of Cyprus and the Cyprus Securities and Exchange Commission for their continued support in these endeavours. Most importantly, we would like to extend our sincere gratitude to EFAMA for their sincere and positive consideration of our application and we look forward to expanding our relationship in the near and long-term future.

*Mr. Angelos Gregoriades, BSc, FCA, is the Chairman and Head of Tax and Corporate Services of KPMG in Cyprus. He is also Chairman of the Board of CIFA, and a Member of the Board of the Cyprus Investment Promotion Agency (CIPA). He is a graduate of the London School of Economics and is a Fellow Member of the Institute of Chartered Accountants of England and Wales.*

**Investment Funds Sector: A Strategic Opportunity for Cyprus**

*By Mr. Christoforos Antoniades, Board Member of CIFA, Partner and Executive Director ARGUS Group*

The investment funds sector has great potential to develop into a significant industry for the economy of Cyprus. Consequently, the creation of a reputable, efficient and competitive European domicile for the global fund and asset management industry should be set as a strategic priority.

There are several reasons supporting the business case for active promotion of the investment funds industry. The most important ones are provided below:

(a) The global investment industry is sizeable, growing rapidly and there is scope for entry, hence there is a **market opportunity**; and

(b) Cyprus has already made significant progress in this field and possesses all of the attributes required for successful penetration, hence it has the **capability** to become a reputable player in the industry.
Global Investment Funds Industry: Sizeable and growing

Based on the latest available information published by the European Fund and Asset Management Association (EFAMA) as at the end of 2013, the total Net Assets of the investment funds industry globally amounted to EUR 23.8 trillion, with European jurisdictions hosting around 37% of the total at EUR 9.8 trillion. The totals include both Undertakings of Collective Investment in Transferable Securities (UCITS) and Alternative Investment Funds (non-UCITS) with the ratio in Europe being around 70:30, respectively.

The US enjoys a 50% market share, while the important jurisdictions in Europe include Luxembourg (9.2%), France (4.7%), Ireland (4.4%) and the UK (3.6%).

The Irish Funds industry, a significant player in the EU and a definite success story, includes a total of 13,000 registered funds (3,600 of these are listed), 440 fund promoters in 55 countries, 45 Administrators, 13,000 persons employed in the industry, 16 Custodian Banks, 45 Administrators and a significant presence of related professionals such as lawyers, accountants, brokers and other support service providers. Ireland enjoys 60 double tax treaties and numerous MOU’s with 23 jurisdictions. By 2020 it is expecting an additional possible 10,000 new jobs in this sector.

Malta, which is also considered a success story among Cypriots, has a total of 588 funds domiciled in Malta with a combined NAV of EUR 9 billion approximately, which implies a market share of less than 0.4% globally and less than 1% in Europe. Malta is committed to increasing the sector’s contribution to 25% of GDP by 2015, benefiting a number of other players of its industry including fund managers (currently 72), 7 Custodian Banks, 28 recognised Administrators, numerous service providers, employees in the finance industry (a total of 10,000 today). Malta also benefits as a jurisdiction from numerous double tax treaties and MOU’s.

The facts above indicate that the fund management industry is already sizable and provides a significant contribution to the economies of the countries involved in the field.

Another encouraging fact is that the fund industry globally is growing. Recent industry studies suggest that global assets under management will increase by more than 40% by 2020 driven by the increase in globalization of the funds industry as well as by the rise of middle classes and investor base in emerging markets. This implies that the total size of net assets of investment funds globally will increase by another EUR 5 trillion within 5-6 years (EUR 800 billion a year) to reach EUR 33-34 trillion by the end of the decade.

In addition to the above, significant trends (of the hedge fund industry mainly) may support the argument for fund managers to shift from lightly regulated jurisdictions to more regulated EU based jurisdictions and especially to the lower cost ones such as Cyprus. These include the potential need to obtain an AIFM license by 2014, the increasing cost pressures on medium-sized alternative investment funds, the need for more and more specialists to handle basic fund management tasks, as well as the desire to obtain access to the EU passport granted under the AIFMD for the raising of capital from professional / institutional investors in the EU.

Cyprus Investment Fund Industry: Capable and ready to attract more business

Cyprus has made significant progress towards creating the necessary landscape and may now be considered to possess all the attributes required in order to attract business in the investment funds industry. This was achieved through a long lasting effort made collectively by various parties involved to develop and promote the sector: the regulators - Central Bank and CYSEC - Governmental authorities such as the Ministry of finance, the investment promotion arms of CIPA and CIFA, as well as private sector professionals including service providers, fund managers and other industry participants.

In numbers, the fund industry in Cyprus is still at an infancy stage but is exhibiting positive signs for high growth potential. Total assets under management amount to just EUR 3 billion, with a total amount of 103 registered funds, mostly being alternative investment funds (100 ICIS and three UCITS). CYSEC currently hosts a couple of licensed UCITS management companies and has approved the first AIFM while numerous investment firms (68 out of a
total of 158) are active in portfolio and fund management under MiFID. There are 7 Custodian Banks, 20 recognized fund Administrators and there is a significant number of high quality legal, accounting, brokerage and other service providers in the island. More than 45 double tax treaties are in place as well as around 20 Bilateral MOU’s.

The industry is already experiencing encouraging interest as a fund jurisdiction with more than half of the funds being set up in the past four years (2014 highest growth) and with the attraction of some global asset managers in the island. We have recently seen several applications for new licenses for Alternative Investment Fund Managers (the last approval was provided to a company managing Luxembourg based Funds) as well as for MiFID based licenses for portfolio management. The new Alternative Investment Fund law, which is expected to be passed imminently, will also provide a modernized framework that should attract more interest for the jurisdiction, which already has all characteristics required by the fund promoters in order to be attractive as a hub:

- Complete and fully harmonized with EU legal framework combined with efficient and reputable regulators;
- Favorable tax regime with efficiency in the system and potential incentives for new fund promoters;
- Professional and experienced service providers with customized service philosophy;
- Lower cost environment for fund set up, management and services compared to other jurisdictions;
- Highly educated and talented workforce;
- Significant network with economic memberships, double tax treaties and MOU’s with access channels to the Middle East, Asia and Eastern Europe;
- Great quality of life (5th best country to live according to recent studies).

The specific elements of the above compare favourably vs. other jurisdictions. In addition to this, the reputation of Cyprus as a financial hub is intact and can improve. The recent raising of debt capital by the Cyprus Government through the financial markets, combined with the significant positive progress it has made in the economy, the speedier adoption of the Troika programme and the recapitalization of the banks, prove that the country is considered stable financially and politically and is ready to positively move on for further sourcing of business. The island is now attracting significant interest for its financial services sectors and is considered potentially more interesting as a hub for investments in view of opportunities arising in the area, its energy story, as well as due to specific characteristics that make it an ideal gateway for inbound and outbound investments. The investment funds sector can greatly benefit by the above characteristics providing itself a healthy contribution to the Cypriot economy. It is therefore evident that the country should allocate more resources for the active promotion of this sector.

Concluding, the significant size of this global industry combined with its growth and favourable trends imply that there is a great potential and opportunity for Cyprus to strategically enter and try to penetrate this market. Given the significant progress we have made as a hub and due to our positive characteristics, we certainly now have the capabilities to become a reputable player, also attracting ourselves a part of the market share of the global investment funds industry.

Mr. Christoforos Antoniades is a qualified Chartered Accountant (ACA), trained with KPMG UK and is also a licensed Investment & Asset Manager. He has 23 years of experience in the investment management, investment banking and corporate finance fields through his involvement in various international and local financial institutions as manager, dept head, director and / or as investor & partner. He is currently Partner and Executive Director of the ARGUS group, offering specialized investment services to international and local institutions and individuals. He is also an active member of the Board of CIFA. He has studied econometrics and finance (BA Econ) at the University of Manchester.
FATCA: Shaping the Compliance Environment of the Cyprus Funds Industry

By Mr. Panayiotis Tzioungouros, Supervisor, KPMG Limited

The Foreign Accounting Tax Compliance Act (FATCA) is a set of US Treasury Regulations, enacted to enable the Internal Revenue Service (IRS) to access information regarding the income of US persons that maintain accounts and assets outside the US. The global reach of the regulations will also affect the Cyprus funds industry. The implementation of FATCA in Cyprus will take place by means of an Inter Governmental Agreement (IGA) and will require investment funds and fund managers to revisit their procedures and introduce additional compliance checks.

Overview of FATCA

In essence FATCA operates on two levels, namely (i) on the level of the payors of US-source payments established in the US and (ii) on the level of non-US entities that fall within the scope of the regulations, which maintain accounts of US persons or may be owned by US persons.

FATCA requires all Foreign Financial Institutions (FFIs) to register and report details on the financial accounts held by specified US persons. It should be mentioned that the definition of a “US person” under FATCA is broad and includes persons such as dual citizens of the US and another country, US citizens even if residing outside the US, US passport holders, persons born in the US unless they have renounced US citizenship and lawful permanent residents of the US (i.e. green card holders).

Further, FATCA requires all non-US entities that are controlled by US persons to disclose details on their shareholding structures. These obligations are enforced by means of a 30% withholding tax on certain direct and indirect payments of US-source income. With regards to the funds industry, the definition of FFIs is an all-encompassing one as it generally includes most types of collective investment schemes, investment firms, fund managers and may also include fund administrators depending on the capacity of services being offered.

Cyprus and FATCA: The Inter-Governmental Agreement

Under the abovementioned US Treasury Regulations, FFIs are required to register and enter into an agreement with the IRS so as to ensure compliance with the FATCA rules. Given the far reaching scope of FATCA and its potential applicability across the globe and in an effort to streamline compliance, the US government has entered into IGAs with several jurisdictions. Under an IGA, FFIs will still be required to register but will not be obliged to enter into a specific agreement with the IRS. They will, however, be required to comply with the respective domestic implementing FATCA rules issued by the contracting state of the IGA. The conclusion of an IGA serves for addressing legal impediments to compliance, simplifying the whole procedure as it provides for local reporting and consequently reduces the costs of compliance to a great extent.

The majority of countries have concluded a Model 1 IGA under which a framework is set for FFIs operating in a contracting state to report the FATCA relevant information to the respective tax authority of the FATCA partner jurisdiction. The FATCA partner tax authority would then transmit the relevant information to the IRS. As per the Model 1 IGA there is a reciprocal obligation from the US to transmit certain information on US accounts held by residents of the FATCA partner jurisdiction.

The complexity and the length of IGA negotiations between the US and the FATCA partner jurisdictions led to considerable delays in concluding such agreements.

In response to these delays, on 2 April 2014, the US Treasury and the IRS announced that they will treat a jurisdiction as having an IGA “in-effect”, provided that before 1 July 2014, the jurisdiction has reached an agreement in substance with the United States on the terms of the IGA and the jurisdiction has expressly consented to be included in the US Treasury’s “in-effect” list, even if the agreement is yet to be officially signed.

With regards to Cyprus, a Model 1 IGA between the US and Cyprus is treated to be “in-effect” by the US
Treasury and the IRS as of 22 April 2014. The US and Cyprus governments have reached an agreement in substance in relation to the terms of the agreement and Cyprus has expressly consented to be included in the relevant “in-effect” list. It should be noted that the text of the IGA has not yet been published.

**FATCA in the Cyprus Funds Industry**

As mentioned above the definition of an FFI under both the US Treasury Regulations and the relevant IGAs is far reaching and includes depository institutions, custodial institutions, investment entities and specified insurance companies. Collective investment schemes, fund managers and fund administrators (depending on the level of services being offered) are likely to be classified as investment entities.

The definition of an Investment entity under a Model 1 IGA is the following:

The term “Investment entity” means any entity that conducts as a business (or is managed by an entity that conducts as a business) one or more of the following activities or operations for or on behalf of a customer (for example an account holder):

1. trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
2. individual and collective portfolio management; or
3. otherwise investing, administering, or managing funds or money on behalf of other persons.

Please note that as the Model 1 IGA definition of Investment Entities is quite broad, it may need further clarification and guidance once the IGA is officially signed between the US and Cyprus and the relevant Guidance Notes are issued by the Cyprus Inland Revenue Department.

**FATCA requirements for Cyprus Investment Entities**

Firstly, a Cyprus Investment Entity will need to register with the IRS and obtain a Global Intermediary Identification Number (GIIN). A Cyprus reporting investment entity should register with the IRS through the FATCA internet portal or manual submission of Form US 8957 in order to be issued with a GIIN number and as to be included on the list of FFIs maintained by the IRS. The GIIN may be used by the FFI to prove to its US counterparties its FATCA registration and receive any US source payment free from any FATCA withholding.

Secondly, for new investors Cyprus Investment Entities will need to introduce revised account opening procedures to identify any US related accounts and gather all the necessary information. The revised account opening procedures will need to be introduced by 1st of July 2014.

Thirdly, for existing investor accounts, due diligence must be carried out by the Investment Entities by 31st December 2014.

**What FATCA means in practice**

It is imperative for all participants in the Cyprus funds industry to engage their advisers as to review their FATCA status in order for their FATCA obligations to be crystallised. FATCA obligations may lead to review and amendments to the legal documentation of the entities such as the prospectus and all subscription related documentation. Furthermore, as FATCA operates on various playing fields, they should consult with their service providers and counterparties as to whether they comply with their FATCA obligations and possibly revisit their fee arrangements.

**FATCA time plan**

1 July 2014 The due diligence procedure in IGA Annex I must be in place for accounts opened after this date

31 Dec 2014 Obtain GIIN before end of 2014 for avoidance of withholding on US source payments

30 June 2015 Complete due diligence of high value individual accounts opened before 30 June 2014 Submit first FATCA return to Inland Revenue Department

30 June 2016 Complete due diligence of all other accounts opened before 30 June 2014
Mr. Panayiotis Tziongouros obtained a Bachelor of Laws degree from the University of Bristol and an Advanced Masters in International Taxation from the International Tax Centre of Leiden University. He has completed the Cyprus Bar Association Examinations and is admitted to the Supreme Court of Cyprus. In 2010 he joined the International Tax & Corporate Services Department of KPMG in Cyprus. Currently he is involved with the structuring and set-up of alternative investment funds and UCITS funds, the authorization of UCITS Management Companies and AIFMs, and is also involved in FATCA entity classification and compliance assignments for related entities. He also participates in the Legal/Regulatory and Tax Technical Committees of CIFA.