

Investment Management Alert

May 14, 2013

Update on the U.K. Transposition of the AIFMD

HM Treasury has published its response (“Response”) to its first consultation on the transposition of the Alternative Investment Fund Managers Directive (“AIFMD”) in the United Kingdom.

The Response confirms the HM Treasury’s intention to “copy-out” the provisions of the AIFMD without “gold-plating” them (that is, adding domestic requirements over and above the requirements of the AIFMD), in an effort to maintain and enhance the competitiveness of the U.K.

Some of the key decisions on AIFMD implementation set out in the Response include:

- allowing both EU and non-EU managers to continue marketing their funds under the existing U.K. private placement regime during the transitional period (until July 22, 2014);
- replacing the registration process for EU and non-EU managers seeking to market their funds under the U.K. private placement regime with a simple notification procedure (consisting of a certification of compliance with the AIFMD by the manager), so that the manager will not be required to wait for the approval of the Financial Conduct Authority (“FCA”) before undertaking marketing;
- allowing U.K. managers of funds established outside the EU to appoint one or more entities to carry out the functions of a depositary (as compared to an earlier draft requirement that a single depositary should be appointed). This will allow U.K. managers of Cayman funds to continue with the existing practice of appointing prime brokers and administrators to carry out the various functions reserved for a depositary under the AIFMD;
- confirming that a U.K. depositary that does not have a new permission from the FCA to act as a depositary under AIFMD may act as a depositary of a U.K. fund until July 22, 2014. Such depositary will, however, be required to comply with the other requirements of the AIFMD.

The amendments to the Regulations are likely to be reflected in the final FCA guidance on the scope of the AIFMD to be released in the next few weeks. We will provide a further client update when the final FCA guidance has been published.

Contact Information

If you have any questions regarding this alert, please contact:

Tim Pearce

tpearce@akingump.com

44.20.7012.9663

London

Ian Meade

imeade@akingump.com

44.20.7012.9664

London

David M. Billings

dbillings@akingump.com

44.20.7012.9620

London

Prakash H. Mehta

pmehta@akingump.com

1.212.872.7430

New York

Eliot D. Raffkind

eraffkind@akingump.com

1.214.969.4667

Dallas

Stephen M. Vine

svine@akingump.com

1.212.872.1030

New York

Kelli L. Moll

kmoll@akingump.com

1 212.872.8041

New York

Jon Hanifan

jhanifan@akingump.com

44.20.7012.9708

London

Anna Maleva-Otto

amalevaotto@akingump.com

44.20.7012.9704

London