

## Investment Management Alert

June 28, 2013

### **U.K.'s Financial Conduct Authority Publishes Final Rules on AIFMD Implementation**

The U.K.'s Financial Conduct Authority (FCA) has published today, a policy statement that sets out its responses to the various consultations that have been undertaken in respect of the rules to be adopted by the FCA to implement the Alternative Investment Fund Managers Directive (AIFMD) in the United Kingdom. The detailed rules included in the policy statement supplement the framework regulations recently published by the U.K. Treasury, referred to in our recent client alert here. Link to: <http://www.akingump.com/en/news-publications/final-draft-of-uk-transitional-rules-for-marketing-and-managing.html>

The contents of the policy statement will be of interest to both U.K. domiciled managers of alternative investment funds (AIFs) and managers of AIFs located elsewhere, if they wish to market AIFs in the United Kingdom, the full text of the policy statement can be accessed here.

We will be producing a detailed client alert summarizing the contents of the policy statement, but there are several interesting areas of note to which we would like to draw our clients' attention initially:

- As expected, the new rules do not yet address fully how the FCA intends to apply the remuneration provisions of the AIFMD to U.K. based managers. However, it appears to be the case that the FCA does not intend to ignore provisions of the controversial European Securities and Markets Authority (ESMA) guidelines on remuneration, but instead intends to provide a proportionality framework for the application of the remuneration requirements. This will, hopefully, take account of the potential impact that the ESMA guidelines could have on the U.K.'s alternative investment fund management industry and help to ensure that the United Kingdom continues to be an attractive venue for managers of AIFs to establish their businesses.
- The FCA has greatly simplified its guidance on the "safe harbor" in respect of the marketing rules, where the investment in the relevant AIF is a consequence of "passive marketing". These changes, taken in context with the United Kingdom's adoption of a transitional period of relief from the impact of the marketing rules, demonstrate a considerable degree of pragmatism being adopted in respect of the regulation of marketing in the U.K., in order to ensure that United Kingdom institutional investors do not see a significant decrease in the number of funds with which they may choose to invest.

We will be publishing a more detailed summary of the final rules in due course, but in the meantime, please reach out to your regular contact at Akin Gump Strauss Hauer & Feld LLP, if you have any areas where you require more immediate advice.

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