

Investment Management Alert

December 19, 2013

HM Treasury Identifies Potential Changes to AIFMD Authorisation Requirements for U.K. AIFMs

This alert will be of particular relevance to U.K. alternative asset managers, preparing to submit variation of permission applications to the U.K. Financial Conduct Authority in relation to the Alternative Investment Fund Managers' Directive.

A number of outlets have reported today that HM Treasury in the U.K. has disclosed that it intends to make changes to the U.K. regulations implementing the Alternative Investment Fund Managers' Directive (AIFMD). In particular, the Treasury has indicated it intends to amend the relevant implementing regulation, so that U.K. alternative investment fund managers (AIFMs) will be able to continue to manage alternative investment funds (AIFs) that they currently manage after July 22, 2014, even if they have not by that time varied their U.K. regulatory permission to include the new regulated activity of managing an AIF.

The Treasury has not yet published the draft amending legislation, so it is unclear what the consequences of this change will be, or what conditions will be applicable to any firm seeking to rely on the legislation. One point that is clear, however, is that any AIFM relying on this further transitional period will need to be fully compliant with AIFMD (and the FCA's rules for AIFMs in FUND) by July 22, 2014, irrespective of their regulatory position.

A number of commentators have suggested that this change indicates that it will no longer be necessary for U.K. AIFM's to submit their variation of permission applications (VOPs) by January 22, 2014 (effectively, the deadline imposed by the FCA for receipt of applications). However, the Treasury's release does not refer to this deadline. In fact, it remains the FCA's prerogative to determine the date by which applicants should submit their VOPs. In view of the significant number of VOPs that the FCA expects to receive from U.K. AIFMs, it remains possible that the FCA will continue to require submission of VOPs by U.K. AIFMs early in 2014. This means, therefore, that, unless and until the FCA publishes a change of position on the date by which VOPs should be submitted, U.K. AIFMs should continue to work towards completion and submission of their VOPs by January 22, 2014. Furthermore, firms should continue to liaise with their service providers and other relevant stakeholders to make preparations for changes to policies and procedures in anticipation of full compliance with the new regime from July 2014 at the latest.

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