

Investment Funds Alert

February 12, 2013

ESMA Final Remuneration Guidelines (AIFMD)

The European Securities and Markets Authority (ESMA) yesterday published its final guidelines on sound remuneration policies under the Alternative Investment Fund Managers Directive (AIFMD).

AIFMD established (in Annex II) a set of remuneration rules for managers (AIFMs) and tasked ESMA with developing guidelines which, if followed, would allow AIFMs to ensure compliance with the Annex II rules. The guidelines form part of AIFMD, are required to be transposed into the national laws of Member States accordingly, and shall apply from 22 July 2013 (subject to the transitional provisions of AIFMD).

The content of the guidelines covers issues such as:

- types of remuneration that are within scope, including the treatment of carried interest, profit shares and distributions
- the interplay of the AIFMD rules with pre-existing remuneration guidelines, such as the MiFID investor protection-focused guidelines, the UCITS guidelines and the CRD guidelines upon which all of them are based
- the categories of staff covered
- the ways in which the rules apply to different remuneration structures and different types of business undertaking
- the manner in which AIFMs will be expected to apply contractual remuneration requirements to their delegates
- proportionality and how different characteristics of an AIFM may affect the requirements applicable to it
- AIFMs being part of a group
- the practicalities of designing a remuneration policy and ensuring appropriate governance of the same
- when a remuneration committee is required and the role of such a committee;
- how and when remuneration policies and levels of remuneration should be disclosed, both internally and externally.

For more information, please click [here](#) to be directed to the ESMA website.

We will be writing to you with a summary of the key provisions and implications of the guidelines shortly. In the meantime, if you have any questions, please get in touch with your usual contact at Akin Gump Strauss Hauer & Feld LLP.

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