

Investment Management Alert

May 2, 2013

HM Treasury Announces a Transitional Period for Marketing of Alternative Investment Funds in the U.K.

The United Kingdom HM Treasury has published a set of [Questions and Answers](#) (“Q&A”) on the implementation of the Alternative Investment Fund Managers Directive (“AIFMD”) in the U.K. The Q&A confirms that the U.K. regulatory authorities are seeking to defer the impact of the AIFMD provisions relating to marketing of funds in the U.K. from July 2013 to July 2014.

Apart from a single line reference in the Q&A to the creation of a transitional period for marketing activities (for both EU and non-EU managers), the Q&A does not provide any illumination on what conditions (if any) will need to be met in order for a non-EU manager to be able to continue marketing in the U.K. during this transitional period on the basis of the current “private placement” rules. Whilst the Q&A provides some encouraging signals for non-EU asset managers about a potential deferral of some of the most onerous provisions of the AIFMD, there is still a need for ongoing monitoring of this issue in the UK and other EU jurisdictions where funds are marketed.

If (as promised in the Q&A) the relevant changes are made to the draft U.K. legislation to create the transitional relief, it would also be directly contrary to a number of previous statements both by the HM Treasury and the U.K. Financial Services Authority on the intention to implement the AIFMD regime by 22 July 2013, in accordance with the requirements of the AIFMD. The AIFMD itself does not create a framework for a transitional period in relation to the application of marketing-related rules.

The HM Treasury’s position marks a significant change in the approach to AIFMD implementation; with the U.K., effectively, refusing to comply with its obligations to implement the marketing regime by 22 July 2013. This position is at odds with the U.K.’s traditional approach to implementation of European directives, but is consistent with the increasingly prevalent approach across the EU, as the vast majority of EU member states are struggling to implement the AIFMD on time and in the manner envisaged by the directive itself.

We will provide a further client update as and when the draft changes to the proposed legislation are published.

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