

Investment Management Alert

May 30, 2013

Alternative Investment Fund Managers Directive - ESMA Approves Cooperation Arrangements with Key Fund Jurisdictions

The European Securities and Markets Authority (“ESMA”) has announced its approval of cooperation arrangements between EU regulators responsible for the supervision of fund managers under the Alternative Investment Fund Managers Directives (“AIFMD”) and the regulators from a range of jurisdictions that are home to alternative investment funds and their managers, including Australia, BVI, Bermuda, Canada, Cayman Islands, Guernsey, Jersey, Isle of Man, Hong Kong, Singapore, Switzerland and the United States.

Under the AIFMD, regulatory cooperation arrangements must exist for non-EU managers to be permitted to market their funds to EU investors under the local private placement regimes and for EU-based managers to be able to manage Cayman and other non-EU funds. The purpose of these cooperation arrangements is to facilitate the exchange of information between EU and non-EU regulators and to ensure mutual assistance in cross-border supervision and regulatory enforcement.

Contrary to some of the earlier indications from ESMA, the cooperation arrangements will take the form of bilateral memoranda of understanding to be entered into by each EU member state and the relevant non-EU regulator separately. In this regard, each EU member state regulator will be free to choose with which of the non-EU regulators it will sign an MoU approved by ESMA, adding yet another layer of complexity to navigating the local private placement rules in each EU member state.

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