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Managers Will Need Wrappers To Access EU

U.S.-based managers who want to market non-EU funds in Europe will likely have to prepare so-called wrapper documents to comply with the Alternative Investment Fund Managers Directive, according to **Simon Thomas**, partner with **Akin Gump Strauss Hauer & Feld**. "It's not just a case now of being able to jump on a plane and fly to Italy to meet an investor. There has to be a lot of thought beforehand," he told *CI*.

The **European Securities and Markets Authority** recently published its final advice to the **European Commission** on the detailed rules that apply to firms under the AIFMD. As of July 2013, the Directive will regulate the marketing of funds in the EU. It imposes tougher oversight of hedge fund firms and private equity shops in the region.

The Directive, Thomas said, is intended to allow non-European managers to access professional investors in Europe, but only with more reporting to investors and to regulators. At present, U.S. managers can market their funds under a private placement regime, where they work out in each member state how to sell their funds. The Directive says that regime can continue for each member state, but there will be additional reporting requirements.

"What this means is that prior to any marketing trip a U.S. manager will do, let's say he's coming to the U.K., France and Italy—he will need to have prepared in advance a wrapper document," Thomas said. "It'll be a regulatory disclosure that wraps around the manager's existing offering document dealing with all the additional regulatory disclosures that he needs to make."

Thomas said the Directive includes some eccentricities. For example, there is a requirement that U.S. manager disclose their valuation policy, but no requirement for them to comply with the strict valuation rules required under the Directive for EU managers.

U.S. managers also will be required to prepare an annual report to investors that includes the total compensation paid by the manager to staff, with the compensation broken down by senior management and other employees. "In the U.S. this is a major deviation from the norm and it is unclear how acceptable it will be to managers," Thomas and other Akin Gump attorneys stated in a recent report. "If you are a high powered hedge fund manager, you don't particularly want people to know how you distribute the profits," Thomas said.