AIFMD Factsheet

AIFMD – Transparency and Reporting

Introduction

The Alternative Investment Fund Managers Directive ("AIFMD"), introduces new transparency and regulatory reporting obligations for Alternative Investment Fund Managers ("AIFM") in respect of each Alternative Investment Fund ("AIF") that is domiciled or marketed in the European Union ("EU"). We summarise below some of the key obligations.

Annual Reports

AIFMD will require audited annual reports to be made available by an AIFM for each AIF that it manages or markets within the EU within six months of each AIF's financial year end.

Transparency Requirements

AIFMD will require the disclosure of certain information to investors in an AIF both prior to and after their initial investment, together with any material changes to this information. Click to view article 23 of AIFMD (page 33).

Pre-Investment Disclosures to Investors in respect of each AIF:

- Investment strategy, objective and details of how any changes may be implemented;
- Information on where any master AIF is established and in the case of fund of fund structures where the underlying funds are established;
- The main legal implications of the investment contracts;
- Intended leverage and collateral arrangements;
- The identity of the service providers (AIFM, depositary, valuer, auditor, prime broker etc, their obligations, including depositary liability and investors’ rights);
- Description of how the AIFM complies with the capitalisation requirements;
- Valuation procedures;
- Fees and expenses to be borne by investors;
- Provisions to ensure fair treatment of investors, together with details of any preferential treatment;
- The latest net asset value and historical performance information where available;
Latest audited annual reports within 6 months of the year end date; and
Liquidity management procedures, including how subscriptions and redemptions are processed.

Where an AIF’s offering documents do not include this information, they will need to be updated. Where the information is likely to change over time, it will most likely be included in a fact sheet or internet based document. AIFMs should document and record how this information is to be provided to potential investors.

Ongoing Disclosure Requirements in respect of each AIF:

- The percentage of its assets which are subject to special arrangements arising from their illiquid nature (eg side pocket arrangements);
- Any new liquidity management arrangements;
- The current risk profile;
- The risk management systems employed to manage those risks; and
- If it employs leverage, it must on a regular basis disclose any change to the maximum level of leverage permitted as well as any re-hypothecation rights or any guarantee granted under the leveraging arrangement and the total amount of leverage that it employs.

The frequency of disclosure will vary depending on on-going changes under each of the categories outlined above.

Reporting Obligations to Competent Authorities

Information by the AIFM:

AIFMD requires each AIFM to provide the following information to the relevant EU competent authority, which in the case of authorised AIFMs, will be its home Member State and for unauthorised/registered AIFMs will be in each EU Member State in which it markets the AIF’s units:

- The main instruments in which it is trading, including a break-down of financial instruments and other assets, including the investment strategies and its geographical and sectoral investment focus;
- The markets of which it is a member or where it actively trades; and
- The diversification of the portfolio, including, but not limited to, its principal exposures and most important concentrations.

Information in respect of each AIF:

- The percentage of its assets which are subject to special arrangements. Special arrangements meaning an arrangement that arises as a result of illiquid assets and which impacts on the specific redemption rights of investors;
- Any new arrangements for managing its liquidity;
- The risk management systems employed to manage the market risk, liquidity risk, counterparty risk and other risks including operational risk;
- Its current risk profile, including the market risk profile of its investments, its expected return and volatility in normal market conditions and the liquidity profile of its investments;
- Information on the main categories of assets in which it is invested, including the corresponding short market value and long market value, the turnover and performance during the reporting period; and
- The results of periodic stress tests under normal and exceptional circumstances.

Reporting Frequency

The European Securities and Markets Authority (“ESMA”) has issued its Final Report - Guidelines on Reporting Obligations under AIFMD, which recommends that existing AIFMs be permitted to take into account the transitional provisions set out under AIFMD, the Commission’s interpretation of these provisions (which states that they should comply on a “best efforts” basis during the transitional period) and their authorisation status.
Thereafter (and for all other AIFMs) the reporting to the relevant competent authority should commence from the 1st day of the following quarter after they have information to report until the end of the 1st reporting period. The relevant reporting periods are set out below:

- On a half-yearly basis by AIFMs managing portfolios of AIFs whose assets under management calculated in accordance with AIFMD in total exceed the threshold of either EUR 100 million or EUR 500 million but do not exceed EUR 1 billion;
- On a quarterly basis by AIFMs managing portfolios of AIFs whose assets under management calculated in accordance with AIFMD in total exceed EUR 1 billion;
- On a quarterly basis by AIFMs which are subject to the requirements referred to in the first bullet point of this paragraph, for each AIF whose assets under management, including any assets acquired through use of leverage, in total exceed EUR 500 million, in respect of that AIF; and
- On an annual basis by AIFMs in respect of each unleveraged AIF under their management which, in accordance with its core investment policy, invests in non-listed companies and issuers in order to acquire control.

The relevant competent authority may deem it appropriate and necessary for the exercise of its function to require all or part of the information to be reported on a more frequent basis or to request additional information. AIFMs managing one or more AIFs which employ leverage on a substantial basis must also provide certain information so that the overall level and the source of leverage may be determined.

ESMA has developed template reporting documents, which detail both the AIFM and AIF specific categories of information that must be provided. You can access the template reports here. The reporting obligations will apply to all AIFMs in respect of both EU managed AIFs and also to any non-EU AIFs that are marketed within the EU. As non-EU AIFMs/AIFs will be marketed until at least 2015 under national private placement regimes, they may be subject to additional local reporting requirements. Please click here for more details on the Third Country Reporting Requirement from July 2013.