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Introduction

AIFMD represents another effort by the European Commission to regulate and strengthen the supervision of the financial services sector in Europe.

The Directive introduces a wide set of rules covering the authorisation, ongoing operation and transparency of managers of alternative investment funds (AIFs) that are marketed in the European Union (EU). AIFMD applies to both managers of EU AIFs and non-EU managers marketing AIFs in the EU, significantly impacting upon the global alternative investment fund industry.

One of the main challenges in the implementation of AIFMD for AIFMs falling within scope is the new Transparency reporting obligation, reporting of which involves a complex process of data sourcing, validation, calculations and mapping.

In this guide we provide a detailed overview of the key AIFMD requirements and in particular the Transparency reporting obligation.

AIFMD in Brief

The Alternative Investment Fund Managers Directive (AIFMD) is an EU Directive that was transposed into European countries’ national law on 22 July 2013. AIFMD introduces a new regulatory regime for non-Undertaking for Collective Investment in Transferable Securities (UCITS) fund organisations including hedge funds, private equity, real estate, infrastructure, mutual funds, and all other types of collective investment undertakings. It aims to regulate managers rather than funds in order to monitor and regulate their activity. AIFMD is pertinent regardless of the legal, economic, or geographic characteristics of the fund.

The key aims of the directive are to prevent market volatility and the build-up of systematic risk in the European financial system, as well as to enhance sector transparency and efficiency.

Who will be subject to the AIFMD?

All European AIFMs that manage and market either EU or non-EU AIFs fall within scope of the AIFMD regulations. These also apply to non-EU fund managers that market either an AIF in the EU or a non-EU AIF to EU investors. As specified in Article 4(1)(a) of the AIFMD, a fund is a “collective investment undertaking, which raises capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors”. It could be open-ended or closed- and take any legal form.

AIFMD provides a much softer regime for AIFMs of funds with less than €100m assets under management or less than €500m in cases where the AIFM is unleveraged or does not allow redemptions for 5 years. These smaller AIFMs are subject only to a registration requirement and not the more troublesome authorisation and transparency reporting, though national regulators will have the right to impose the full AIFMD requirements on any such managers.

Where AIFMs are subject only to the softer regime, they will be excluded from taking advantage of passporting rights under AIFMD. In order to do so, the AIFM will be required to ‘opt in’ for full authorisation.
Exemptions
A number of key exemptions apply to the scope of the AIFMD, including holding companies, joint ventures, securitisation special purpose entities, pension funds, employee participation or savings schemes and family offices.

Figure 1: AIFMD Scope

<table>
<thead>
<tr>
<th>In scope</th>
<th>Out of scope</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>AIF?</strong></td>
<td>• Non-UCIT&lt;br&gt;• Raises capital from a number of investors&lt;br&gt;• Defined investment policy for benefit of investors</td>
</tr>
<tr>
<td><strong>Marketing?</strong></td>
<td>• EU AIFM managing and marketing either EU of non-EU AIFs&lt;br&gt;• Holding companies, joint ventures, securitisation special purpose entities, pension funds, employee participation or savings schemes and family offices</td>
</tr>
<tr>
<td><strong>AIFM?</strong></td>
<td>• Legal person or business managing one or more AIFs&lt;br&gt;• Responsible for portfolio management and/or risk management</td>
</tr>
<tr>
<td><em><em>AUM</em>?</em>*</td>
<td>• AIFM with AUM &gt; €100m&lt;br&gt;• Unleveraged AIFM with no redemption rights for 5 years with AUM &gt; €500m</td>
</tr>
<tr>
<td><strong>AIFMD Passport?</strong></td>
<td>• EU Marketing Passport&lt;br&gt;• National Private Placement Regime</td>
</tr>
</tbody>
</table>

* Assets Under Management

What are the AIFMD key requirements?

Authorisation
AIFMs are required to submit their applications for authorisation to their home state authority by the end of the transitional period on 22 July 2014. Their application should comprise the following information: company’s employee and shareholder details, remuneration policies and practices, details of any outsourced activities and third party relationships, and activity programme. AIFMs must also meet the minimum capital requirement of €125,000.

General operating conditions
A number of universal operational principles apply, including:
• Compliance with conduct of business rules (e.g. fair treatment of investors, conflicts of interest, remuneration, etc.)
• Compliance with rules governing management and regulation of risk and liquidity
• Protection of investment by mandatory appointed external depository
• Control on delegation of certain functions such as portfolio and risk management
• Marketing of AIFs within the EEA
• Limiting the use of leverage in order to avoid the accumulation of systematic risk
Reporting & Disclosure

Annual Report

EU and non-EU AIFMs must prepare an annual report for each AIF they market in the EU within 6 months of the end of the financial year that includes general items such as a balance sheet, a profit and loss statement and a report on the business’ activities. The annual report should also provide information on remuneration and how this is divided into fixed and variable components along with any carried that has been paid during the period. The aggregate amount paid to the manager’s risk-takers – whose activities can influence the performance of the managed funds – also needs to be disclosed. In addition, AIFMs should report details (if applicable) of how remuneration is connected to a specific fund, and general specification on the financial and non-financial criteria used to determine remuneration policies.

Disclosure to Investors

AIFMs are required to disclose to investors the following mandatory information:
- Specification of the investment strategy and risk policies
- Detailed risk profile of the AIF
- If the AIF is a fund of fund, the jurisdiction where the master AIF is established
- The types of asset in which the AIF can invest and investment techniques
- Descriptions of types and sources of permitted leverage
- Summary of liquidity risk management policy
- Breakdown of all fees, charges and expenses carried by investors

Reporting to Regulators

Reporting Frequency

For each AIF marketed within the EEA, AIFMs should report to their local regulators on a regular basis. Frequency of reporting depends on the size of assets under management – quarterly, half-yearly or annually. See Figure 2

Figure 2: Reporting Periods

<table>
<thead>
<tr>
<th>Type of Fund</th>
<th>Reporting Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private equity fund is unleveraged and invests to acquire control of companies</td>
<td>Annual</td>
</tr>
<tr>
<td>AIFM with AUM &gt; €1 billion</td>
<td>Quarterly</td>
</tr>
<tr>
<td>AIFM with AUM &lt;€1 billion but with 1 or more funds which are greater than €500 million</td>
<td>Semi-annual</td>
</tr>
<tr>
<td>AIFM with AUM &lt;€1 billion and no individual fund is greater than €500 million</td>
<td>Semi-annual</td>
</tr>
</tbody>
</table>

Reporting Disclosures

An AIFMD regulatory report should disclose essential information on the principal markets and instruments in which the AIFM trades on behalf of the managed fund, along with details of key instruments that are actively traded and principal exposures and concentrations for each AIF. ESMA has provided technical guidance and template for reporting to national supervisors.
The template includes the following key sections and data provisions:

**AIFM Data**
- Identification of details of the AIFM
- Principal markets and instruments traded on behalf of the managed fund
- Values of assets under management for all AIFs

**AIF Data**
- Identification of details of the AIF
- Breakdown of investment strategies
- Principal exposures and most important concentration
- Instruments traded and individual exposures

**Reporting Format**
Reporting languages and formats depend on the systems used by individual authority institutions. Common reporting formats are Excel and XML.

**Marketing & Management Passport**
AIFMD allows AIFMs authorised by a Member State to market AIF units or shares to investors across the EEA without the requirement to have approval from any other Member States. This marketing passport will not be available to AIFs managed by non-EEA funds or to non-EEA AIFs managed by EEA funds. They will continue to be subject to national private placement (NPP) regimes until 2015 at the earliest when ESMA will review the obligation.
Timeline

Figure 3: AIFMD Implementation Timeline

- **End of transitional period provided for by the Directive**: July 2014
- **Introduction of authorisation requirements for non-EEA AIFMs and third-country passport**: October 2014
- **AIFMD EU-wide Passporting**: October 2015
- **Q4 2018**
- **2019**

**UK Reporting Deadline**: 22 July 2014

**Review of AIFMD rules**: October 2015

**End of private placement regime**: July 2015

Reporting Software

Arkk Solutions has pioneered easy to use, cloud based, regulatory reporting software. Whilst the burden of regulation becomes more onerous for investment managers our products ensure that the mechanics of reporting information remains cost effective and simple.

Our AIFMD reporting solutions takes the ESMA reporting templates and allows you to use these to create validated XML reports for submission to the regulator, within our secure web based portal. There is no systems integration or lengthy training needed, which leaves you to focus on data collation and reporting.

Sources


ESMA, (2013), Final report: Guidelines on reporting obligations under Articles 3(3)(d) and 24(1), (2) and (4) of the AIFMD (available at: http://www.esma.europa.eu/system/files/2013-1339_final_report_on_esma_guidelines_on_aifmd_reporting_for_publication_revised.pdf; accessed on 28/03/14)


About Arkk Solutions

Arkk Solutions is a leading vendor in regulatory and statutory reporting software. Our products are used and trusted by many of the world’s leading companies.

A common theme with all our solutions is a simplified user experience. Our software allows users to carry on business as usual and enables the reporting process to be run in Excel. The complexities of iXBRL, XBRL and XML are handled by the software, taking your Excel reports and converting them to the required format for submission to the relevant Authority.

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