AIFMD Factsheet: Third Country Regime

What is the AIFMD?

The Alternative Investment Fund Managers Directive ("AIFMD") introduces a new passport system for the marketing of alternative investment funds ("AIFs") in the EU. The marketing passport is automatically available to authorised EU AIFMs managing EU AIFs. However, the AIFMD introduces different rules for non-EU AIFMs and non-EU AIFs which mean that the passport will not be available for non-EU AIFMs and non-EU AIFs unless and until the European Commission adopts the necessary legislation extending the passport. The chart below summarises the rules applicable to the management and marketing of EU and non-EU AIFs by EU and non-EU AIFMs.

AIFMD Third Country Regime

<table>
<thead>
<tr>
<th>Domiciles</th>
<th>Marketed in EU?</th>
<th>Does AIFMD apply?</th>
<th>Marketing Regime</th>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>AIFM</td>
<td>AIF</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>EU</td>
<td>EU</td>
<td>Yes</td>
<td>Yes</td>
<td>EU Passport</td>
</tr>
<tr>
<td>EU</td>
<td>EU</td>
<td>No</td>
<td>Yes</td>
<td>None</td>
</tr>
<tr>
<td>EU</td>
<td>Non-EU</td>
<td>Yes</td>
<td>Yes</td>
<td>NPPRs (2013 to at least 2018)</td>
</tr>
<tr>
<td>EU</td>
<td>Non-EU</td>
<td>No</td>
<td>Yes</td>
<td>EU Passport (from date of passport extension)*</td>
</tr>
<tr>
<td>EU</td>
<td>Non-EU</td>
<td>No</td>
<td>Yes</td>
<td>None</td>
</tr>
<tr>
<td>Non-EU</td>
<td>Non-EU</td>
<td>No</td>
<td>No</td>
<td>None</td>
</tr>
<tr>
<td>Non-EU</td>
<td>Non-EU</td>
<td>Yes</td>
<td>Yes</td>
<td>NPPRs (2013 to at least 2018)</td>
</tr>
<tr>
<td>Non-EU</td>
<td>Non-EU</td>
<td>Yes</td>
<td>Yes</td>
<td>EU passport (from date of passport extension)*</td>
</tr>
<tr>
<td>Non-EU</td>
<td>EU</td>
<td>Yes</td>
<td>Yes</td>
<td>NPPRs (2013 to date of passport extension)</td>
</tr>
<tr>
<td>Non-EU</td>
<td>EU</td>
<td>No</td>
<td>Yes</td>
<td>EU passport (from date of passport extension)*</td>
</tr>
<tr>
<td>Non-EU</td>
<td>EU</td>
<td>No</td>
<td>Yes</td>
<td>None</td>
</tr>
</tbody>
</table>

Conditions

(a) An appropriate cooperation arrangement is put in place between the competent authority of the AIFM’s home member state or the member state of reference and the supervisory authority of the third country where the non-EU AIF/AIFM is established.

(b) The third country where the non-EU AIF/AIFM is established is not listed as a “non-cooperative country” by the Financial Action Task Force.

(c) The third country where the non-EU AIF/AIFM is established has signed a tax information sharing agreement with the competent authority of the AIFM’s home member state or the member state of reference and each competent authority where the AIF is proposed to be marketed.
AIFMD = Alternative Investment Fund Managers Directive; NPPRs = National Private Placement Rules (member states may introduce stricter local rules when the AIFMD comes into force); MSR = member state of reference

Full details of the Asset Management and Investment Funds Group, together with further updates, articles and briefing notes written by members of the Asset Management and Investment Funds team can be accessed at www.matheson.com.

Contacts

Tara Doyle
PARTNER
T +353 1 232 2221
E tara.doyle@matheson.com

Michael Jackson
MANAGING PARTNER
T +353 1 232 2000
E michael.jackson@matheson.com

Dualta Counihan
PARTNER
T +353 1 232 2451
E dualta.counihan@matheson.com

Joe Beashel
PARTNER
T +353 1 232 2101
E joe.beashel@matheson.com

Anne-Marie Bohan
PARTNER
T +353 1 232 2212
E anne-marie.bohan@matheson.com

Shay Lydon
PARTNER
T +353 1 232 2735
E shay.lydon@matheson.com

Liam Collins
PARTNER
T +353 1 232 2195
E liam.collins@matheson.com

Philip Lovegrove
PARTNER
T +353 1 232 2538
E philip.lovegrove@matheson.com

Elizabeth Grace
PARTNER
T +353 1 232 2104
E elizabeth.grace@matheson.com

Oisin McClenaghan
PARTNER
T +353 1 232 2227
E oisin.mcclenaghan@matheson.com

Michelle Ridge
PARTNER
T +353 1 232 2758
E michelle.ridge@matheson.com

This material is provided for general information purposes only and does not purport to cover every aspect of the themes and subject matter discussed, nor is it intended to provide, and does not constitute or comprise, legal or any other advice on any particular matter. The information in this document is subject to the Legal Terms of Use and Liability Disclaimer contained on the Matheson website. Copyright © Matheson 2016.