



Hedge Funds Update September 2008

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We are very pleased to present you with a new issue of our Hedge Funds Update. The purpose of this quarterly newsletter is to bring readers up to date on specific hedge fund and other alternative investments-related news published in recent months. The newsletter focuses on features that are relevant to Dutch hedge fund managers and administrators and, of course, the increasing number of institutional investors. Most of the hedge fund business in the Netherlands is driven by trends and regulations in countries such as the Netherlands, the US, the UK, the Cayman Islands, the British Virgin Islands and Bermuda. Consequently, there is a strong focus on trends and news affecting the hedge fund industry in these jurisdictions.

We have used a range of public sources and results of public surveys and studies to compile this newsletter. Where applicable, sources are stated. Hedge fund specialists of several Ernst & Young service lines contribute to this quarterly newsletter.

General News

Ernst & Young Hedge Fund Symposium: 18 November 2008

Based on the success of Ernst & Young's first Dutch Hedge Fund Symposium, a second Hedge Fund Symposium will be organised on 18 November 2008. Attached is the Save the date invitation and the highlights of the programme. We are very proud that, amongst others, Michael Kraland and Niels Oostenbrug will give a presentation.

[Read more](#)

Ernst & Young Alternative Investment training: 20 October 2008

A more technical hedge fund training for hedge fund managers, institutional investors, regulators and service providers will be organised on 20 October 2008. See the attached brochure. Transtrend B.V. will also give a presentation during the training.

[Read more](#)

The Netherlands; Short selling

Although Dutch Finance Minister Wouter Bos is considering measures to clamp down on 'short selling', he seems unwilling to follow in the footsteps of the United States or the United Kingdom. He wrote this in a letter to the Lower House of the Dutch

Parliament, responding to questions from MPs.

Earlier this year, the U.S. Securities and Exchange Commission restricted the short selling of certain types of securities. Short selling involves speculation on a fall in the price of a share.

Bos refers to the measures the SEC took in July as “a temporary emergency measure whose effectiveness has not been demonstrated”.

Short selling involves the selling of shares that the seller does not own at the time of the sale. The seller typically borrows the shares from another party, often an institutional shareholder, assuming that the share price has fallen when he is obliged to deliver the shares.

In July, the SEC restricted the possibilities for short selling shares in some ten institutions in the financial industry. According to Bos, the SEC did so to prevent the crisis in the US financial industry from deepening. He takes the view, however, that conditions in the US and the Netherlands are “incomparable”, which is why restricting (naked) short selling will “most likely not have the same effects”. In his letter, Bos also wrote that “it is the prevailing opinion that short selling can contribute to an efficient operation of the financial markets”.

Bos pointed out that the Dutch Authority for the Financial Markets (AFM) keeps a close watch on market abuse related to short selling, such as spreading negative reports on companies to depress share prices, and that the AFM has sufficient means to combat abusive short selling. He expects to be able to present a further analysis in the autumn. By then, according to Bos, the SEC should have released sufficient information about the effects of its restrictions on short selling.

Luxembourg; Technical Guide

The attached document is a technical guide discussing several topics regarding hedge funds in Luxembourg.

[Read more](#)

Efama introduces pan-European fund classification

A new pan-European classification for funds was launched on Monday 23 June 2008 in Brussels by the European Fund and Asset Management Association (Efama). The classification aims to give investors a basis with which to compare funds across Europe and has been introduced in response to the growing importance of cross-border funds.

“We want investors to be able to compare funds throughout Europe” said Peter de Proft, director general of Efama, commenting on the launch of the European Fund Categorisation (EFC).

De Proft said that existing categorisations were too broad and that product development had outpaced the development of fund categorisation. Cora Gibbons from Allianz Global Investors, a member of the European Fund Categorisation Forum (EFCF), which has devised the new system, highlighted the additional problem that existing categorisations are often based on what the fund manager tells the category administrator rather than on an analysis of underlying holdings.

“The EFC is based on actual holdings of funds,” she said. “That means investors will know exactly what they are investing in.”

So far, the EFCF has categorised 1,591 international funds with assets under management of €503 billion. This represents 31% of international funds by number of funds and 45.2% by assets. Funds are defined as ‘international’, based on Lipper Feri data, if they source at least 80% of their assets from more than one market.

Twenty fund managers have participated in the EFC project alongside data vendors Bloomberg, Feri Rating Research AG, Lipper and Morningstar and the trade associations Efama, Assogestioni (Italy), BVI (Germany) and DUFAS (Netherlands). Initially, classifications will be based on December 2007 data. The EFCF then plans to update the classifications quarterly, ultimately moving to monthly updating.

In order for the EFC to become the pan-European standard that the EFCF hopes it will, more companies will have to sign up for the project. Persuading them to take on this administrative burden, and to part with information they don’t normally divulge, may be a key hurdle to overcome. “The value chain will take time,” said Bernard Delbecque, director of economics and research at Efama. “A number of stakeholders will need to play a role.”

Ultimately, the EFCF hopes its classification will become a European industry standard. But this will be a step by step process and implementation at the local level will be flexible. “For the time being, there will be cohabitation of local standards and these pan-European standard,” De Proft said.

For more information on the new European Fund Categorisation project see the attached [brochure](#) below or visit www.efama.org

United States of America

Many Asset Management news items and hedge fund topics are discussed in the attached Asset Management update.

[Read more](#)

Hedge fund groups form international alliance

The trade groups' chief executive officers, MFA's Richard Baker and AIMA's Florence Lombard said, in a joint statement, that the alliance would allow them to study issues such as "the adoption of a global, principles-based regulatory system."

The push for international standards from inside the industry comes after an unprecedented growth in the asset class.

But even as the industry has grown and become more international in scope, it faces a patchwork of regulation from region to region.

How do Private Equity investors create value?

The attached report presents the results of a study into Private Equity. Topics include: how do Private Equity firms achieve superior investment returns, objective performance, objective performance comparison, market benchmarks, insight into managing private equity portfolios, etc.

[Read more](#)

Off-shore countries

Regulatory

UK supervisory authority clamps down on speculation

On 20 June 2008, the FSA obliged investors to disclose short positions exceeding 0.25% of a company's share capital, which should put off investors. In addition, it may set limits on the size of such positions.

The FSA's measure was mainly prompted by the problems Royal Bank of Scotland and mortgage bank HBOS face. In June, HBOS's rights issue worth EUR 5 billion came under pressure, partly due to short selling.

FSA goes after hedge funds, again

Final rules will not be out until February and implementation is not expected until September 2009, but the proposal is another way that the FSA is cutting back on hedge fund firms' ability to do business in the UK. The proposal calls for firms when they have CfDs positions that comprise more than 3% of a company's shares.

CfDs are contracts where the buyer makes a deal to pay for shares over time, thereby delaying actual ownership. They are akin to the kind of swap arrangements that are at the heart of a dispute between US freight railroad company CSX and hedge fund firms The Children's Investment Fund and 3G Capital Partners.

The move comes directly on the heels of an FSA mandate that short sellers with a greater than 0.25% stake in a company disclose their position. Unusual for the FSA, which takes a consultative approach to rule-making, the short-seller regulation was published quickly, with only a week allowed for compliance.

Accounting and internal control

Credit Crisis Accounting

The turmoil in the global credit markets has highlighted a number of accounting issues. The attached second brochure, prepared by Ernst & Young, discusses these issues under International Financial Reporting Standards (IFRS).

[Read more](#)

SAS70 reports

The International Auditing and Assurance Standards Board (IAASB), an independent standard setting body within the International Federation of Accountants (IFAC), approved the exposure draft, proposed International Standard on Assurance Engagements (ISAE) 3402, "Assurance Reports on Controls at a Third Party Service Organization" for publication in December 2007. This proposed ISAE may be modified in light of comments received before being issued in final form. Comments are received and a final standard will be issued.

Further details and the relationship with SAS70 are described in the attached [brochure](#).

FAS 157

The attached document provides frequently asked questions and answers about fair value measurement disclosures, as required by FAS 157 in the United States.

[Read more](#)

IFRS 7 survey

In the attached publication, an analysis and examples are provided of the disclosures made in the first year of mandatory adoption of IFRS 7: Financial Instruments – Disclosures by the 24 largest European banks. Even though this may not be fully relevant for hedge funds and hedge fund managers, there are many links with disclosures of hedge funds.

[Read more](#)

Taxation

US Hedge Fund Tax Alert

The attached Hedge Fund Tax Alert provides information under the title "Congress focused on tax treatment of oil, natural gas and related commodities".

[Read more](#)

Changes in claiming refund of dividend withholding taxes in the Netherlands as of 1 January 2008

Instead, relief for these Dutch and foreign withholding taxes is now provided by effectively reducing the Dutch dividend tax liability on profit distributions by an FII to its shareholders. The new legislation also affects Dutch and certain EU pension funds that would normally be entitled to a full refund of Dutch dividend taxes. To the extent such Dutch dividend tax relates to a distribution by an FII, they are no longer eligible for a full refund.

For more details on the practical implications of these new tax regulations, please contact John Borsboom (

john.borsboom@nl.ey.com), Arjan van Oostrom (arjan.van.oostrom@nl.ey.com) or Joost Hendriks (joost.hendriks@nl.ey.com) of the Financial Services Group in Amsterdam.

Tax changes in US and Switzerland

The attached brochure highlights several changes proposed in the US and Switzerland to tax treatment of management companies and investors.

[Read more](#)

Market performance and inflows

Hedge funds, Global

The dollar amount of fund liquidations during Q2 was larger than new fund launches by an estimated US\$ 8.5 billion; the third highest level of fund closures on record. Despite liquidations, large funds appear to have attracted enough capital to grow the hedge fund industry at an organic growth rate (change in total assets excluding performance) of 11.1% in the last year.

Funds of hedge funds, Global

FoF liquidations were greater than new fund launches and allocations to existing funds by an estimated US\$ 470 million. Allocations to existing FoFs were the third lowest dollar value on record and lowest as a percentage of total FoF assets. Performance gains actually lifted total FoF assets to an estimated US\$ 1.439 trillion, an increase from Q1 of 2.4%.

Europe

New allocations of US\$ 21.5 billion to funds located in Europe increased total assets by 2.6%. Combined with performance gains, total European hedge fund assets rose an estimated 4.8% to US\$ 857.6 billion.

Web links

Some interesting free web links

www.aima.org

The Alternative Investment Management Association Ltd., a global, not-for-profit trade association for hedge funds, managed futures and managed currency funds.

www.thehfa.org

The Hedge Fund Association is an international not-for-profit association of hedge fund managers, service providers and investors formed to unite the hedge fund industry and add to the increasing awareness of the advantages and opportunities of hedge funds.

www.hedgefundcenter.com

A hedge fund knowledge forum for the latest hedge fund news stories.

www.hedgeindex.com

The Credit Suisse/Tremont hedge index.

www.eurekahedge.com

Independent hedge fund research company Eurekahedge.

www.hedgefundresearch.com

Hedge Fund Research is for analysts and investors who need access to the broadest universe of hedge funds.

Web link to the Global Hedge Funds Symposiums site

[Read more](#)



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