

IMMEDIATE RELEASE

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EU Directive on Alternative Investment Fund Managers misguided says PwC

The publication of the EU's proposed Directive on Alternative Investment Fund Managers, as it stands, could risk forcing the alternative asset management industry into radical restructuring in consequence of an overreaching proposal to govern unregulated funds, which not only catches hedge funds and private equity funds but also real estate funds, commodity funds and other types of institutional funds, warns PricewaterhouseCoopers LLP.

James Greig, partner, PricewaterhouseCoopers Legal LLP comments:

"Understandably and correctly the European Commission has to tackle systemic risk but we are unconvinced that the draft presented is a proportionate means of addressing this objective. The Directive is too wide-ranging, catching all collective investment vehicles other than UCITS in its net, which is unnecessary and misguided. We echo the concerns of the key trade bodies in their criticism of the catch-all effect and unintended consequences it appears to have on sectors of business where no material systemic issues have been identified or which are already subject to perfectly adequate schemes of regulation. We are also concerned that funds caught by this Directive will be made subject to significant disclosure and transparency obligations and will, as investors, be at a competitive disadvantage to, for example, the Sovereign Wealth Funds and other investors expressly excluded from its ambit.

"We are concerned about the reduction of the threshold of fund managers which will catch those managing portfolios of €100m or more, or €500m in the case of unleveraged funds with investor lock-ins. This will potentially saddle relatively small funds with big administration and compliance burdens. The investor protection mechanics (governance requirements, reporting requirements, external valuation and custodian requirements) also appear disproportionate to a regime which is focused on professional investors only.

"From an international perspective, the draft gives rise to serious competitive concerns, given the lack of clarity and detail about the position of EU resident administrators, asset managers and advisers servicing non-EU fund complexes. Will the Directive render EU resident players uncompetitive? Will non-EU groups be generally caught if they have an EU presence even if their role is limited? Will non-EU funds be put into difficulties when investing into European markets? How will the three year "safe harbour" for non-EU funds coming into the EU work?

"These issues all show that a more considered approach needs to be taken in crafting the final form of the Directive."

James Greig, partner, PricewaterhouseCoopers Legal LLP sums up:

"The Commission says it expects the Directive to be the subject of intense discussion and negotiation. We look forward to working through the detail to see how it will impact our clients operationally and structurally and to taking part in the debate going forward."

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