

PRESS RELEASE

ESMA advises on extension of funds passport to 12 non-EU countries

The European Securities and Markets Authority (ESMA) has today published its [Advice](#) in relation to the application of the Alternative Investment Fund Managers Directive (AIFMD) passport to non-EU Alternative Investment Fund Managers (AIFMs) and Alternative Investment Funds (AIFs) in twelve countries.

Currently, non-EU AIFMs and AIFs must comply with each EU country's national regime when they market funds in that country. ESMA's Advice relates to the possible extension of the passport, which is presently only available to EU entities, to non-EU AIFMs and AIFs so that they could market and manage funds throughout the EU.

For each country, ESMA assessed whether there were significant obstacles regarding investor protection, competition, market disruption and the monitoring of systemic risk which would impede the application of the AIFMD passport.

According to ESMA's advice:

- there are no significant obstacles impeding the application of the AIFMD passport to **Canada, Guernsey, Japan, Jersey and Switzerland;**
- if ESMA considers the assessment only in relation to AIFs, there are no significant obstacles impeding the application of the AIFMD passport to AIFs in **Hong Kong** and **Singapore**. However, ESMA notes that both Hong Kong and Singapore operate regimes that facilitate the access of UCITS from only certain EU Member States to retail investors in their territories.
- there are no significant obstacles regarding market disruption and obstacles to competition impeding the application of the AIFMD passport to **Australia**, provided the Australian Securities and Investment Committee (ASIC) extends to all EU Member States the 'class order relief', currently available only to some EU Member States, from some requirements of the Australian regulatory framework;

- there were no significant obstacles regarding investor protection and the monitoring of systemic risk which would impede the application of the AIFMD passport to **the United States** (US). With respect to the competition and market disruption criteria, ESMA considers there is no significant obstacle for funds marketed by managers to professional investors which do not involve any public offering. However, ESMA considers that in the case of funds marketed by managers to professional investors which do involve a public offering, a potential extension of the AIFMD passport to the US risks an un-level playing field between EU and non-EU AIFMs. The market access conditions which would apply to these US funds in the EU under an AIFMD passport would be different from, and potentially less onerous than, the market access conditions applicable to EU funds in the US and marketed by managers involving a public offering. ESMA suggests, therefore, that the EU institutions consider options to mitigate this risk;
- For **Bermuda** and the **Cayman Islands**, ESMA cannot give definitive Advice with respect to the criteria on investor protection and effectiveness of enforcement since both countries are in the process of implementing new regulatory regimes and the assessment will need to take into account the final rules in place. For the **Isle of Man** ESMA finds that the absence of an AIFMD-like regime makes it difficult to assess whether the investor protection criterion is met.

ESMA published its first set of [Advice](#) on the application of the passport to six non-EU countries (Guernsey, Hong Kong, Jersey, Switzerland, Singapore and the US) in July 2015. The European Commission (Commission) subsequently [asked](#) ESMA to assess a further six countries and to provide more details on the capacity of non-EU supervisory authorities and their track record in ensuring effective enforcement, including those non-EU countries which ESMA looked at in its first set of advice. The Commission also asked ESMA to provide data on the expected inflows of funds by type and size into the EU from the different non-EU countries.

This Advice, required under the AIFMD, will now be considered by the European Commission, Parliament and Council.



Notes for editors

ESMA's mission is to enhance investor protection and promote stable and orderly financial markets. It achieves these objectives through four activities:

- assessing risks to investors, markets and financial stability;
- completing a single rulebook for EU financial markets;
- promoting supervisory convergence; and
- directly supervising specific financial entities.

ESMA achieves its mission within the European System of Financial Supervision (ESFS) through active cooperation with the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), the European Systemic Risk Board, and with national authorities with competencies in securities markets (NCAs).

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