



JERSEY FINANCE

VOICE OF THE INTERNATIONAL FINANCE CENTRE

Monday 16 May 2011

ESMA
11/13 Avenue De Friedland
75008 Paris
France

Dear Sir,

Discussion paper on ESMA's policy orientations on possible implementing measures under Art 3 of the Alternative Investment fund Managers Directive

We are writing to you in relation to the discussion paper on ESMA's policy orientations on possible implementing measures under Art 3 of the Alternative Investment fund Managers Directive. Jersey Finance is the promotional body that represents the finance industry in Jersey. Our key objective is to promote and develop the benefits of Jersey as an international finance centre. The funds sector, alongside banking and fiduciary services, represents one of the three key pillars which underpin Jersey's success as an International Finance Centre. Funds under administration in Jersey are valued at £180 billion. Jersey has been a prominent player in delivering fund services since the 1960s. Jersey's funds industry specialises in funds for institutional, specialist and expert investors. In particular, alternative investments have become increasingly important as a way of supporting inward investment and Jersey has attracted a significant number of venture capital, private equity, mezzanine, real estate and hedge funds. Jersey is recognised by institutional investors as having a strong and appropriate regulatory environment with significant depth and breadth of professional expertise developed over more than 30 years. A significant number of private equity managers have a physical presence in Jersey with dedicated resources to manage the activities appropriately.

Our response

The exemptions seem less effective than originally thought. The proposals apply thresholds on a continuing basis which means that an AIFM/AIF may fall out of the exemption mid-life. This is highly impractical and could mean that a closed-ended fund with a limited lifespan would have to restructure after 3 years (e.g. a 250m euro fund targeting an annualised 30% IRR). The AIFM would then need to go through the authorisation process and could theoretically be denied authorisation mid-life. This creates an unacceptable uncertainty and small AIFMs will therefore be forced to opt-in from the outset facing disproportionate compliance costs.

Our recommendation is therefore that AIFMs of closed-ended AIFs with a limited lifespan are granted the exemption under Art 3 throughout the lifespan of the fund in recognition of the low risk they represent to the financial system.

We also fully support the response submitted by the European Private Equity and Venture Capital Association.

Yours sincerely,

Heather Bestwick

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