



Alternative Investment Fund Managers Directive passport: Golden ticket or pain in the ... ?

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Sometimes the marketing hype is just way cooler than the reality.

When the Alternative Investment Fund Managers Directive (**AIFMD**) was introduced, the vision was that passport-holding fund managers would be able to freely market their funds across all EU member states (plus Iceland, Liechtenstein and Norway, as members of the EEA) without encountering the burden of additional regulation and fees. However, the passport does not appear to be the hassle-free golden ticket fund managers had hoped for. Contrary to the spirit of the AIFMD, some member states have introduced additional filing requirements and fees for passport-holding fund managers seeking to market in their jurisdiction.

The European Securities and Markets Authority (**ESMA**), the European regulator, is currently in receipt of appeals from industry representatives to investigate whether or not member states are allowed to make passport-holders jump these additional hurdles, and potentially take action against particular member states. Whilst industry is being reactive to its frustration and concerns – for example, Invest Europe, a representative of Europe's fund industry, has asked fund managers to notify them if they receive fee requests from member states, so that they can raise it with ESMA – it is clear that industry is not satisfied with the current operation of the passport regime.

All this begs the question whether or not the compliance costs of maintaining a passport are really worth it? Well ... the jury is still out on that one.

NPPR: business as usual

Of course, an alternative way of marketing to investors in desired markets is to use the existing national private placement regimes. In our experience, 75 to 80 per cent of the EU investors our clients are marketing to are based in the UK, Germany, Sweden, Luxembourg, Ireland, Belgium and the Netherlands. For fund managers wishing to access these (and other) European markets, private placement can offer a less burdensome and cheaper solution for fund managers wishing to access markets today. NPPR remains a very effective and viable means to access investors.

If you want to know more, just pick up the phone to your favourite Collas Crill contact.

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