

2015 regulatory developments in asset management

The background of the slide features a series of overlapping, semi-transparent purple and light blue shapes that resemble stylized arches or waves, creating a modern, abstract design.

10/02/2015

2015 regulatory developments in asset management

- Overview of asset management
- AIFM
- MIF II
- New European Regulations
- UCITS V
- PRIPs
- MMF Regulation
- The Société de Libre Partenariat



Overview of asset management

- **634 asset management companies**
 - 613 at the end of 2013
- **Approximately 12,000 products**
 - 3,500 UCITS
 - 8,500 AIFs including
 - 2,000 FCPEs
 - 1,600 FIP/FCPI/FCPRs
 - 3,000 FIVGs
 - In an environment of low rates, formula funds and monetary funds are the main products that have seen a decrease in assets in 2014.
- **AMF competitiveness indicators remain satisfactory**
 - Average time to authorise an asset management company: approximately 75 days
 - Average time to authorise a fund: approximately 20 days

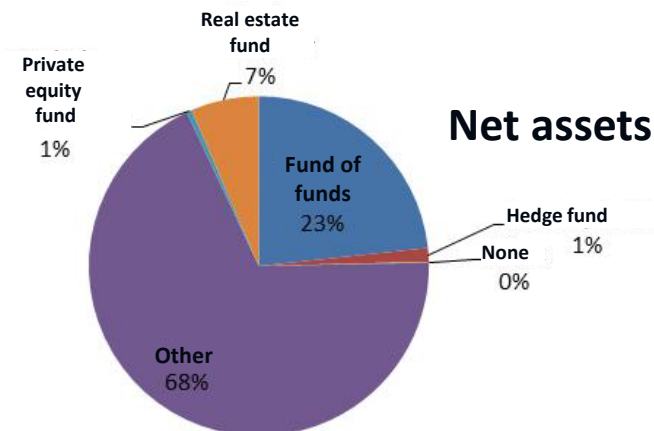
- **Effective implementation of the AIFM Directive**
 - 315 AIFM authorised companies, including 268 management companies authorised in 2014.
 - Approximately 40% 'opt-in'
 - The restructuring of the product range is now effective
 - The modernising of products continues: property (indirect investment and life annuities in REITs, the use of credit claims for AIFs, forestry investment consortia, etc.)
- **AIFM Passports – 'asset management'**
 - 107 passports requested by 45 French AMCs, mainly for Luxembourg, Ireland and the United Kingdom
 - 57 passports received, the majority concerning AMCs from the United Kingdom
- **AIFM Passports – 'product'**
 - 'Outgoing' passports: 330 (mainly towards LUX, NL, FIN, DE, BE, DK, ESP)
 - Concerning 204 French funds, 57 Lux funds, 37 UK funds, 29 IRL funds
 - 'Incoming' passports: 175 (87 UK, 50 LUX, 22 IRL)

- **Implementing AIFM *reporting***

- January 2014: first reports for managers below the thresholds
- End September 2014: first quarterly reports for managers above the thresholds subject to this reporting
- End December 2014: first data gathering exercise on all AIF Managers
- Approximately 500 products not authorised by the AMF managed directly by French asset managers (foreign funds, other AIFs: Venture capital firms, consortia, etc.)

- **What have we learned?**

- A wealth of information, particularly for systemic risk management
- We still need to improve the quality of data or clarify certain issues
- Few AIFs claim to be hedge funds



- **The challenges for the AIFM passport: towards an extension to third countries?**

- **Three phases**

- 1. 22 July 2013 – 22 July 2015: intra-European AIFM passport**

Managers of alternative investment funds (AIFs) authorised and established in the European Union, which manage or market alternative investment funds in the European union, can market to professional investors and freely manage AIFs in all member States.

- 2. From 22 July 2015: a possible extension of the AIFM passport to third countries subject to approval by ESMA**

In parallel with national regimes in place for this purpose, the passport will then make it possible to market products in the Union with a third-country AIF passport managed by an asset manager established in the Union; and the management of Union AIFs by asset managers established in third countries and/or the marketing in the Union of AIFs (from the Union or third country) that these same asset managers manage.

- 3. Before 22 July 2018: new ESMA recommendation delivered to the European Commission aiming to evaluate the possible removal of national regimes**

ESMA will address a second recommendation to the European parliament, European Council and European Commission, this time concerning the removal of national marketing regimes without a passport (known as private placement regimes), that may be kept in the regulation of member states until then.

- **In advance, a review of the use of the intra-European passport**
 - Competent authorities reporting to ESMA: an initial analysis of how the passport is being used
- **Signature of 36 bilateral agreements with the third countries concerned**
 - Delegation schedule between European and non-European entities.
 - Prerequisites for possible third country passports
- **Analysis of existing barriers between the third countries concerned**
- **Advice and opinion from ESMA**
 - To deliver to the Commission for approval/counter-proposal before 22 July 2015
 - Third country/third country approach
- **The sequencing of a possible extension**

MIF 2: the challenges for asset management

- **Enactment in French law**
 - By 3 July 2016 at the latest
 - With implementation from 3 January 2017 (barring possible exceptions)
- **Important challenges for asset management**
 - Product governance
 - Inducement
 - Independent advisory service
 - Product intervention
 - Information on costs
 - Transparency towards market/regulators



- **EUVECA (venture capital investment) / EUSEF (social entrepreneurship)**
 - 2 dossiers received in 2014 on two new labels for a portfolio of approximately €26 m
 - An instruction focussing on:
 - verification of the quality of the fund manager
 - the eligibility of the measure used (criteria for selecting securities)
 - the marketing procedure (professional or non-professional investors conscious of the risks)
- **ELTIF (long term investment funds)**
 - Regulation adopted on 10 December 2014 following the Commission's Green Paper on the long term financing of the European economy
 - Commission's conclusion: there are no pan-European funds dedicated to long term asset classes
 - Target: long term investors favouring regular returns with short term liquidity (insurance companies, pension funds, retail investors, etc.)
 - A 'Product Regulation' attached to the AIFM Directive
 - Work on drafting execution measures starting at the beginning of 2015

UCITS V: revision of the UCITS Directive (1/2)

- **Transposition of the Directive**
 - By 18 March 2016 at the latest

- **Delegated acts**
 - Technical opinion from ESMA
 - Following a coconsultation carried out at the end of 2014, ESMA's technical opinion was delivered to the European Commission on 28 November 2014
 - Two major sections of the 'depository' part of the text
 1. The independence of the depository
 2. Bankruptcy of the sub-custodian
 - Remuneration
 - Preparation of ESMA's Guidelines based on guidelines on remunerations published directly after AIFMs and the EBA's guidelines being prepared on CRD IV
 - Sanctions



- **Timetable**

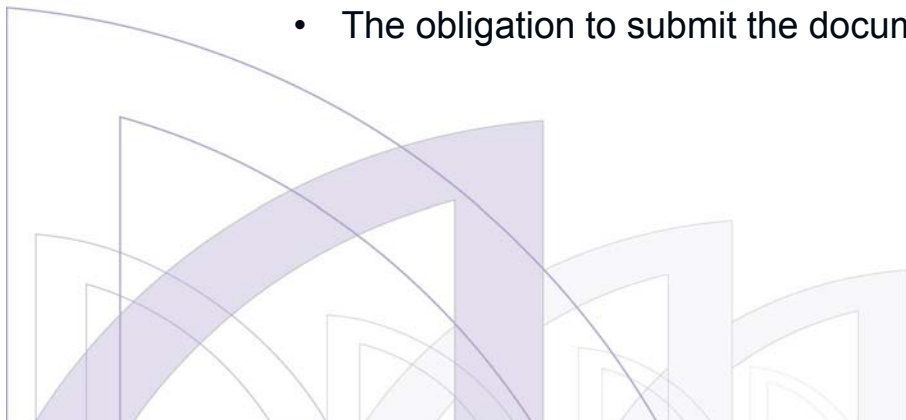
- The European Commission has three months to analyse ESMA's draft (technical opinion)
- Technical opinion to be studied by the Commission
- Objectives
 - Delivery to the European parliament before Q2 2015
 - Stakeholders can receive information about all the regulatory texts before the maximum enactment period
- Work still to be carried out by ESMA
 - Questions raised between AIF and UCITS managers.
 - Remuneration guidelines taking into account the EBA's work



PRIPs: European Regulation on packaged retail investment products (1/3)

- **Reminder of the context and timetable**

- Publication in the Official Journal of the EU: 9 December 2014
- Entry into force: 31 December 2016
- Scope
 - Financial products which performance is linked to other underlying assets, aimed at retail investors (within the content of the MIF)
 - List of financial, insurance and banking products, UCITS and AIFs available to the general public, structured bonds, structured deposits, derivatives, CFDs, convertible bonds, unit-linked life insurance policies, SPVs, etc.
 - Exemptions: non-life insurance, other deposits, pension products, etc.
- Pre-contractual information
 - A document inspired by the Key Investor Information Document (KIID) prescribed by the UCITS IV Directive.
 - The obligation to submit the document to the distributor before making any sales.



PRIPs: European Regulation on packaged retail investment products (2/3)

- **Document content**

- Information contained in the KIID required by the UCITS Directive
 - Risk indicator, performance scenario, etc.
 - Exception to the UCITS KIID: past performance
- The introduction of new sections
 - Consequences for the investor if the initiator/producer is unable to make payments, possible cover by an investor compensation or guarantee scheme
 - Methods and consequences of early repayment
 - Recommended investment period
 - Complaints (information for the investor on complaint procedures and who to contact)

- **Grandfathering clause for UCITS**



PRIPs: European Regulation on packaged retail investment products (3/3)

- **Legislative framework**

- Regulation (level 1) published in the Official Journal of the EU on 9 December 2014 will enter into force on 31 December 2016
- Delegated acts – technical standards (level 2) written by European Regulation agencies (ESMA-EIOPA-EBA) and will be supported by the Commission

Article 8: content of the key information document (KID)

→ Division of work into two groups: 'risks' and 'costs'

Articles 10 & 13: conditions to fulfil to meet the requirement of providing the KID

- **Items to schedule for 'KID' work (article 8)**

- First '*discussion paper*' published on 17 November (response deadline 17 February)
- Launch of '*consumer testing*' and the group of experts (Q1 2015)
- Publication of a second '*discussion paper*' ('*technical discussion paper*') in May 2015
- Two months of public consultation for the '*technical discussion paper*' (until the end of July 2015);
- Delivery of final technical standards ('regulatory technical standard') to the Commission by 31 March 2016

MMF Regulation: report on Money Market Funds reform in Europe

- **Negotiation guidelines: maintain the Regulation's initial objectives**
 - Guarantee financial stability
 - Maintain the short-term financing of the economy
 - Ensure an optimal level of investor protection

- **Progress report on negotiations**
 - Council of the EU
 - Discussions ended at the end of the Italian presidency (December 2014)
 - The Latvian presidency has not demonstrated an interest in taking the matter further during its presidency
 - European Parliament
 - Continuing discussions: compromise currently being sought by the rapporteur N. Gill
 - Several possible options
 - Core subject: requirement for CNAV MMFs to vary their variable net asset value (VNAV)
 - Voting at the next plenary session planned for 2 March

The Société de Libre Partenariat: a new investment vehicle

- **A 'French-style *limited partnership*'**
 - A new tool for the competitiveness of the Paris financial industry
 - Reinforced corporate governance
- **Greater flexibility in terms of eligible assets and investment rules**
- **A written contract between the investor and the portfolio management company**

