



## AIFMD MOST FREQUENTLY ASKED QUESTIONS (FAQs) ON THIRD COUNTRY REGIME

### 1. In a nut-shell, what is the AIFMD?

The AIFMD is a European Union Directive seeking to regulate hedge funds, private equity funds and real estate funds – also called Alternative Investment Funds (AIFs). The AIFMD consists of two set of regulations (1) Level 1 – Directives and (2) Level 2 – Technical Requirements. The AIFMD will come into force on 22 July 2013.

### 2. In general, who will be affected by the AIFMD?

All fund managers (AIFMs) established in the EU, whether managing or marketing EU funds or non-EU funds will be subjected to the AIFMD. Non-EU managers marketing non-EU AIFs in the EU will also be governed by the AIFMD. There are however a number of key exemptions to the scope of the AIFMD.

### 3. What are the marketing routes for Non-EU AIFs under the AIFMD?

- From 22 July 2013 to 2015, Non-EU AIFs would be able to market in the EU through the private placement regime – (conditions apply);
- From 2015 onwards, the passport regime may be extended to non-EU AIFMs – (conditions apply).

### 4. What are the conditions to satisfy to be able to use the private placement regime?

There are three conditions to satisfy (1) Disclosures (2) Cooperation Agreements (3) FATF. Condition 1 should be satisfied by the non-EU AIFM. Conditions (2) and (3) are the responsibility of the Mauritian jurisdiction.

**5. Has Mauritius satisfied all the conditions under the private placement regime?**

With the approval of the ESMA MoU by EU Regulators with on 22 May 2013, Mauritius will have satisfied all the conditions under the AIFMD for Mauritius-regulated funds to continue to market in Europe under the private placement.

**6. With Mauritius satisfying the conditions, does this mean that Mauritius-based funds will be automatically allowed to be marketed in the EU?**

No, under the AIFMD, EU Member States are allowed to impose stricter conditions to their private placement regimes. Accordingly, the AIFM intending to market its funds in the EU should contact the relevant Member State regulator(s) to find out whether any additional conditions are being imposed.

**7. Is there an application process?**

Yes, the non-EU AIFM should contact each EU Member State regulator(s) where marketing is being intended to find out the application process to be followed – different regulators may have different processes.

**8. What happens if a Mauritian fund falls under the exemptions of the AIFMD?**

These Mauritian funds will still need to contact the EU Member State regulators where the actual marketing is currently being done. The EU regulators may seek information to confirm whether the funds indeed fall under the exemptions. To continue marketing of the funds, the EU regulator(s) may impose conditions to be satisfied.

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