



1. The AIFM proposal which was written by the Commission in reaction to risks identified during the financial crisis covers a wide range of funds already subject to different local and EU regulations

The AIFM Directive proposal (Alternative Investment Fund Managers) issued in April 2009 covers management companies managing one or more non UCITS funds (labelled AIFs ie Alternative Investment Funds in the proposal) such as hedge funds, private equity funds, real estate funds, commodity funds, infrastructure funds and funds fairly similar to UCITS that do not come under UCITS criteria (eg structured funds, guaranteed funds or any general purpose fund which does not comply with one of the many criteria of the UCITS Directive).

The choice was made by the Commission to regulate the managers of AIFs rather than the products themselves. This was mainly explained by the fact that the main decisions are made at the management company level.

Main objectives	Main measures	Main products potentially concerned
Prevent systemic risks	Macro-prudential measures: Reporting to authorities Leverage limitations	All AIFs distributed in the EU covered. Potentially systemic funds are mainly some hedge funds and some Commodity funds
Prevent micro-prudential risks by regulating at EU level AIFMs not or inadequately regulated at local level	Micro-prudential measures: Authorization Conduct of business rules Capital requirements Transparency requirements Delegation rules Rules on depositary and requirements for independent valuator	Funds not adequately regulated at domestic level
Creating a cross-border EU market for non-UCITS funds	Cross-border distribution rules: passporting rights for EU and non-EU products for professional investors (requiring coherent rules at EU level)	All funds with cross-border potential
Implementing a common approach to professional investor protection	Investor disclosure requirements	Funds with cross-border potential for which coherent rules needed at EU level
Improve private equity information disclosures	Disclosure rules for AIF acquiring controlling influence in non listed companies	Private equity funds acquiring stakes > 30% (usually not leveraged at fund level)

¹ Source EFAMA statistics

² This is the case for hedge funds, private equity funds and real estate funds in most major EU countries with the exception eg of Germany which does not allow the public distribution of hedge funds but only of funds of hedge funds.

³ Domestic legislations for onshore management vary across Member States and asset classes, but typically involve

The current proposal pursues a broad scope of objectives as illustrated below. These objectives do not apply in the same way to all types of funds, since the products covered have quite different characteristics in terms of leverage, liquidity, investment strategy, etc...

The requirements of the AIFM proposal are designed for professional investors. Although a small proportion of AIFs is sold to retail investors in some EU markets – around 10% of real estate and fund of hedge fund assets are sold directly or indirectly to retail investors according to the figures published by the Commission – the bulk of AIFs is sold to professional and institutional investors.

The AIF market is quite large with around €2 trillion in assets currently managed by AIFMs in the EU representing approximately 30% of the total EU fund market¹. A large part of the EU market is represented by German domestic 'Spezialfonds' dedicated to institutional investors. Off-shore funds registered in non-EU countries also represent a significant part of the market particularly in the private equity and hedge fund segments where 70 to 80% of assets are registered outside the EU although their managers are mostly based in the UK. In continental Europe non-UCITS funds are usually domiciled on-shore like their managers.

AIFMs and AIFs are already subject to different local regulations. Non-UCITS funds already exist in most EU Member States and are covered by local regulatory regimes². In the same way the companies managing these funds are generally subject to domestic regulations which vary across EU countries³. **EU AIFs and non-EU AIFs cannot be passported at present but can be sold cross-border in many EU countries to targeted professional investors, through local private placement regimes or frameworks for the domestic distribution of foreign funds.** Such regimes are based in particular on the equivalence of regulatory standards. These local frameworks vary at present across Member States in terms of products, investors concerned and rules.

The distribution of AIFs is also subject to MiFID and certain AIFs such as closed ended funds are subject to disclosure requirements under the Prospectus Directive⁴.

2. The current proposal has brought up many questions related to its objectives and scope, to its consistency with existing EU legislation such as UCITS and to the options proposed for non-EU fund distribution

Most players admit that EU level measures may be required to prevent systemic risks and welcome measures to facilitate the cross-border distribution of AIFs, at least of EU AIFs, but many requirements of the current proposal have been criticized by industry stakeholders and political decision makers.

2.1. The wide scope and prescriptive nature of the Directive need to be reviewed according to many industry players

registration and oversight of fund managers as well as structural separation of the manager and the depositary. These regimes may also regulate certain product features or aspects of the investment policy (such as diversification limits, use of leverage, valuation and other portfolio constraints)

⁴ AIFMs are also subject to the Market Abuse Directive, the Anti-Money Laundering Directive and the Transparency Directive when investing in listed companies

A wide scope of objectives covering funds with very different characteristics

- Some requirements are perceived as irrelevant or redundant for some fund categories. For example, the AIFM text would apply to domestic funds already regulated locally, leading to possible regulatory overlaps and inconsistencies, provisions on leverage are considered difficult to apply to real estate funds, etc...
- Certain requirements are considered to be too detailed for a regulation meant to be applied to the management company (eg investor disclosure rules or rules relating to the control of the level of leverage)

The large proportion of dispositions which are required to be defined at Level II

- Many dispositions in the Directive refer to implementing measures to be further specified at Level II, leading to a high level of uncertainty as to the final dispositions of the Directive and to excessive power given to the Commission, according to some observers. This is the case for example of reporting requirements, limits to the level of leverage, provisions regarding reporting of AIF exercising controlling influence in non-listed companies...

2.2. Leverage limitations and disclosures of controlling influence in non-listed companies are considered inappropriate by a large part of the industry concerned

The possibility offered to the Commission to impose further leverage limits on top of regulatory disclosures is criticized, particularly by hedge fund managers⁵.

- Hedge fund managers argue that a leverage ratio is not necessarily a good indicator of the risk represented by the fund. Some funds can indeed be more vulnerable given the nature of their assets with a low ratio than others with robust assets and a higher leverage. They also underline the technical difficulties to evaluate leverage objectively since it can evolve artificially in periods of strong volatility, being a ratio of assets and debt and to evaluate leverage for funds of hedge funds, which are a significant part of the market.
- In addition many players point out that the leverage of alternative funds remains very limited compared to some other market participants eg some banks.

The requirements targeting private equity funds are considered inappropriate by a large part of the private equity industry and to overlap with local regulation⁶:

- Many private equity players consider that the notification requirements proposed in case of controlling influence are either inadequate or difficult to apply and point out that they are already mostly covered by existing domestic regimes: the 30% threshold for notifying the non-listed company and its stakeholders is considered as inappropriate - private equity firms usually take a majority stake in the companies they invest in - and could lead to protectionist reactions, the obligation to disclose certain strategic elements to the company stakeholders is difficult for confidentiality reasons,

the requirements for notification to the authorities in case of cross-border distribution is considered incompatible with the marketing process of private equity funds etc...

- They also consider that leverage which is not at the fund level but at the investee company level⁷ is not a good justification for these measures.

2.3. Insufficient consistency with other EU regulations and particularly UCITS⁸ is criticized by the industry

- Several rules in the AIFM proposal differ both from MiFID and from the UCITS directives. Some rules are more stringent eg regarding depositaries and valuers or capital requirements. Others are more flexible eg absence of fund rules and possible passporting for non-EU funds.
- Many industry players argue that greater coherence is needed between UCITS, MiFID and AIFM regulations⁹ to avoid level playing field issues. The opportunity to streamline regulations for companies managing both types of funds was also suggested, as well as the possibility to allow automatic authorization for managing AIF of companies already authorized for UCITS funds¹⁰.

- Specific issues are also stressed by administrative agents. Depositaries consider that measures for AIFM should be defined in relationship with the on-going consultation of the Commission on UCITS depositaries and postponed if necessary¹¹. They consider that the responsibilities defined in the AIFM proposal cannot apply in the same way to such a diverse range of assets with different safekeeping arrangements and question the absence of mention of prime brokers. Some are also worried that no Level 2 measures are proposed for defining liabilities.
- The concept of the independent valuator, which does not exist in the UCITS Directive, is also criticized for its insufficient clarity by many industry players. The AIFM proposal indeed does not define precisely the roles and responsibilities of this new player. Many players also believe that having a functional separation between investment and risk management tasks on the one hand and the valuation tasks on the other hand, possibly within the same financial group, as is the case for UCITS, is a sufficient safeguard and is more cost-efficient¹².

2.4. The dispositions proposed for the passporting of non EU products are highly controversial

- A part of the industry, particularly continental players, is opposed to the passporting of non-EU AIFs, considering that they may be more lightly regulated with difficult legal recourse for EU investors, that regulatory equivalence will be difficult to demonstrate, and reciprocal access not always meaningful. They are opposed to an automatic extension of passporting to non-EU funds after the 3 year delay considering that a formal review is necessary before any extension. Some depositaries add that recourse to a EU depositary may not be a proper safeguard in case of difficulty¹³.

⁵The AIFM proposal does not explicitly define leverage limits but states that the Commission shall adopt implementing measures setting limits to the level of leverage AIFM can employ. The proposal also gives a definition of a high level of leverage. Many hedge fund managers consider that leverage limits are not justified by the limited role played by hedge funds in the triggering of the crisis. They are also afraid of the detrimental impact they may have on the industry

⁶le cash equities, derivatives,, shares of funds...

⁷le the company in which the fund invests

⁸Needs for further coherence with MiFID, the Prospectus Directive and the Transparency Directive which already affect certain AIFs have also been put forward. Some players also believe that some measures included in the AIFM proposal should be broadened to other market segments eg regarding short selling or disclosures of acquisition of controlling influence.

⁹And possibly the prospectus Directive

¹⁰and possibly for those authorized under MiFID, under certain conditions

¹¹Many dispositions regarding depositaries in the AIFM proposal differ from the UCITS rules: the control function is not included in the directive proposal, the liability of the depositary is closer to an obligation of results (burden of proof), depositaries do not have to be located in the Member State where the fund is domiciled

¹²Considering also that in any case management companies can decide to outsource this activity. Many players are also against regrouping all valuation activities with one provider, preferring to keep the option of delegation to several players for specific assets

¹³An alternative suggested by some players could be to add a requirement to have a branch or subsidiary in the home country of the fund

- Another group in the industry, particularly managers of offshore funds are strongly in favour of opening passporting options to non-EU funds and are concerned about the 3 year delay proposed in the Directive for this option. Many players are also concerned that the domestic distribution of offshore funds allowed at present for professional investors through existing private placement arrangements may be put off for 3 years or may be impacted by the Directive, reducing options for these investors.
- Some observers have also pointed out that restricting passporting to EU funds would put them in an unfavourable position since they could end up being submitted to more constraints than non-EU funds, which can already benefit from quite liberal domestic private placement regimes in several EU countries.

2.5. The potential impacts on smaller companies is widely put forward

- Some small / medium companies above the 100 Mio € threshold consider that the AIFM requirements will represent an additional burden (eg reporting) or cost (eg capital requirements) putting them in a difficult economic position and at a competitive disadvantage with non-EU players. Some add that size is only an indicator and that other criteria should be taken into account eg the trading strategy or level of leverage.

3. Possible way-forward:

3.1. There is at present a good level of consensus in the industry on the scope and objectives of the proposal, which should help in the discussions with EU authorities, although many technical details need to be fine-tuned:

- **The scope of objectives of the Directive.** Most industry players agree that maintaining a broad scope of objectives covering both the enhancement of the regulatory oversight of AIFM and the facilitation of cross-border distribution of AIFs is probably the best way forward at this stage. So long as this does not lead to overlaps and inconsistencies with existing legislation eg for well regulated domestic funds,... or to inadequate rules being imposed
- **Reinforced macro-prudential supervision of AIFM and AIF.** There is a general agreement in the industry on the need for reinforced macro-prudential supervision of all non-UCITS fund distributed in the EU, so long as it takes the form of more systematic regulatory oversight and not of ex ante leverage limitations. The modalities of this supervision and its enforcement (responsibilities, timeframe...) still need to be defined, when systematically important institutions have been detected¹⁴.
- **Further consistency with the UCITS Directive:** the general principle to ensure consistency between AIFM and UCITS rules seems to be admitted as well the need to review depositary / valuator requirements in coherence with UCITS rules
- **The need to adjust the level of detail of requirements to the scope and objectives.** A principle-based approach could

be favoured in some cases - eg for investor disclosure rules - to facilitate co-existence with existing frameworks and avoid going into more specific product regulation.

- **Reducing the scope of Level II measures** should also be a result of discussions between the industry and the authorities. This should lead to a reduction of the legal uncertainty created by the Level II measures and an increase in the degree of harmonisation of the rules favouring investor protection.
- There is a strong level of consensus in the industry on the **need to review rules targeting leveraged funds and funds acquiring controlling influence in companies** ie private equity information disclosures.

3.2. Deciding on the right way forward for cross-border distribution rules of AIFs however remains a pre-requisite for significant progress to be made on the AIFM proposal

Macro-prudential oversight should apply to all AIFMs marketing AIF funds in the EU. Beyond this, the scope and contents of the Directive, should be strongly dependent on the decision made regarding cross-border distribution of AIF in the EU. This is particularly the case for the micro-prudential rules (authorization, capital requirements, conduct of business rules...) and investor disclosure requirements to include in the Directive.

AIFs and AIFMs are indeed already regulated by existing domestic regulations in most Member States. Domestic rules vary across the EU but they already cover micro-prudential and investor protection rules in most cases.

Therefore, unless these domestic rules are considered to be insufficient or to potentially give a strong advantage in the local market to domestic funds vs those submitted to EU rules:

- The need to add EU level rules or to further streamline them should be justified by an objective to further develop cross-border distribution of these funds in the EU, which indeed requires coherent EU rules.
- The level of detail and prescriptive nature of these requirements should be adapted to the ambition of the scenario chosen for cross-border distribution of these funds and to the level of integration stakeholders decide for the EU AIF market¹⁵.
- The opportunity to exempt from all rules except macro-prudential ones, purely domestic EU AIFM managing only AIF domiciled and distributed in their home Member State could be examined. The same could apply to EU AIFM managing only non-EU funds not distributed in the EU.

¹⁴This process should take into account the roles played by domestic regulators and the Systemic Risk Committee to be created in particular

¹⁵If EU stakeholders opted in the end for a status quo concerning cross-border AIF distribution, limiting options to existing domestic private placement rules, there would not be much justification for additional EU-level rules, except

for macro-prudential oversight, unless major gaps are identified in existing domestic regulations. The development of a really integrated cross-border market for AIF funds would on the contrary require detailed EU level provisions covering a large part of the scope defined in the present AIFM proposal to ensure that producers and investors are submitted to equivalent rules

All players agree that existing cross-border distribution options offered at present in domestic private placement regimes should be maintained and that this requires clarification in the definition of marketing given in the Directive. Spontaneous purchasing of EU and non-EU fund shares by investors (ie "reverse solicitation") should be allowed.

This means of course that possible EU cross-border distribution measures proposed in the Directive should be coherent with these existing domestic arrangements. In addition EU level measures should ensure an equivalent level of protection for investors in EU funds and non EU funds.

At this stage, we do not see the need for EU level distribution rules concerning non-EU AIFM¹⁶. The fact that they can continue to benefit from existing domestic rules usually based on "reverse solicitation" principles should nevertheless be clarified to preserve existing options of EU investors¹⁷.

Four main scenarios should be further evaluated by the industry and the EU authorities for fostering cross-border distribution at EU level of AIFs managed by EU AIFMs (see detail of options in Appendix 1)¹⁸:

- **Status quo:** maintain existing domestic private placement regimes and no additional cross-border distribution options at EU level
- **EU private placement regime for AIFM authorized in the EU with common rules at EU level:** with two options¹⁹:
 - Limiting the regime to spontaneous purchase by the investor
 - Allowing active private placement to a limited group of investors, designed for cross-border distribution to targeted professional investors (limited eg by a number or type of investor, invested amounts)
- **"Full" passport for EU and non-EU AIFs managed by EU AIFM with regulation at the level of the management company (located in the EU):** the proposal of the current text but limited to AIFM authorized in the EU
- **EU passport for EU AIFs with regulation at the level of the management company (located in the EU) -** which could possibly co-exist with existing national private placement regimes for non-EU funds.

A common EU private placement regime for AIFM authorised in the EU (first step mentioned above) would have the advantage to simplify the cross-border distribution of AIF to targeted EU professional investors, with common private placement rules applying across the EU. It could apply both to EU and non-EU AIF generalizing and harmonizing the options already available in many EU Member States, maintaining an adequate balance between these fund categories and fostering the convergence of EU AIFM and AIF towards common practices. This would broaden the options available to EU professional investors giving them simplified access to a wide range of EU and non-EU products managed by AIFM registered in Europe while not forbidding existing access in domestic markets to products of non EU AIFM.

¹⁶This would require complex regulatory equivalence evaluations in particular and does not seem to be the main object of a EU legislation.

¹⁷provided the EU supervisor concerned has reached an agreement on regulatory equivalence with the non-EU country having authorized the AIFM

¹⁸The evaluation of these scenarios should take into account their potential impacts on investor protection, the conditions to enforce protection rules, the needs of EU industry players and investors, the possibility to evaluate regulatory equivalence with non-EU rules, the potential benefit or possibility of accessing non-EU markets and the possible impact for EU markets and economies

¹⁹These two options exist at present in domestic legislation: e.g. the NL allow active marketing to a targeted group of investors, in France non-EU AIF can be bought only at the initiative of the professional investor

Possible compromise proposed following a preliminary evaluation of these scenarios (see Appendix 2)

A first step could consist in providing a common EU private placement regime intended for targeted professional investors and which could apply to EU and non-EU AIF funds managed by AIFM authorized in the EU.

This regime would allow both the spontaneous purchase ("reverse solicitation") by EU investors of EU and non-EU AIFs managed by EU AIFMs and strictly targeted active marketing of these products (with limits defined by e.g. a limited number of investors targeted, specific investor categories within the professional investor segment of MiFID or investment thresholds...).

This regime would involve:

- Common authorization rules in the EU as well as a common set of principle based rules (conduct of business, investor information rules...) at AIFM level ensuring a minimal common level of investor protection
- Obligations to inform the supervisors of the country of distribution of the offers made²⁰. This information would allow supervisors to oversee these products and intervene ex- post if necessary.
- Obligations for professional investors not to pass on AIF products to retail investors eg through a wrap product

This regime would replace existing domestic private placement for EU and non EU funds managed by EU AIFM, possibly after a transition period or with a grandfathering clause (to be further analyzed).

Some players suggest that such a private placement regime with lighter constraints than the UCITS Directive, could also be extended to UCITS funds targeting the same type of institutional or professional investors (which represent around a third of the UCITS market) which would open a new option for UCITS managers on a level playing field with AIF managers.

At a later stage, the AIFM Directive could be reviewed in order to assess the need for wider passporting options for AIFM domiciled in the EU. Such a passporting regime would allow EU AIFM in particular to market actively EU AIF funds to a wider population of professional investors. Such a regime could possibly be extended to non-EU AIFs depending on the results obtained during the first step and on the possibility and need to extend the EU integrated market to non-EU products. This would probably require more detailed investor protection and conduct of business rules to be defined at AIFM level and ensuring that EU investors can have adequate recourse vis-à-vis the EU AIFM, if necessary, for non-EU funds.

A more ambitious scenario would be to go directly to the second step and to allow immediately the passporting of EU AIFs managed by AIFM authorized in the EU. This possibility could potentially be extended to non-EU AIFs. But beforehand this would require, as for the second step mentioned above, verifying in particular that EU investors are able to have the same level of protection for a EU fund and a non-EU fund managed by a AIFM authorized in the EU and that extending the integrated EU market to non-EU funds is possible and justified.

In addition another issue worth considering in a separate regulatory stream is the type of framework that could be proposed for retail oriented EU AIFs eg real estate funds or funds of hedge funds for which management company or product level regulation could be re-considered. Here, the possibility of extending the UCITS Directive to such funds should be considered as an option.

²⁰but supervisors would not be able to prevent access to the fund if the AIFM is authorized in the EU according to the rules above



At the same time its impact would be limited to selected groups of professional investors, well aware of the offers made, limiting misselling risks. Indirect distribution to retail investors would be forbidden by specific requirements put on the investors targeted. The supervisors of the country of distribution would be systematically informed of the offers being made through fund level disclosure (to be defined), allowing them to control the detailed contents of certain products if necessary ex post²¹. Minimal safeguards would be brought by rules at the AIFM level, taking into account the type of professional investor targeted: authorization, disclosure to supervisors at fund level, certain capital requirements...

²¹ although they would not be able to prevent access to EU or non-EU AIFs distributed by a EU-registered AIFM compliant with AIFM rules

²² if agreement based on OECD tax convention and if equivalent regulatory and supervisory standards are demonstrated

Appendix 1: Detail of the 4 options for cross-border distribution of AIFs managed by EU AIFMs

Present situation	EU AIF	Non-EU AIF
EU AIFM	Domestic private placement	Domestic private placement
Non EU AIFM	NA ?	Domestic private placement

Initial AIFM proposal	EU AIF	Non-EU AIF
EU AIFM	EU Passport	EU Passport after 3 years ²²
Non EU AIFM	NA ?	EU Passport after 3 years ²⁰

First step proposed	EU AIF	Non-EU AIF
EU AIFM	EU Private placement	EU Private placement
Non EU AIFM	NA ?	Domestic private placement

Second step proposed After review	Present situation	Present situation
EU AIFM	EU Passport	EU Private placement or EU Passport (to be defined)
Non EU AIFM	NA ?	Domestic private placement

APPENDIX 1: Detail of the 4 options for cross-border distribution of AIF

Option	Features	Impacts for AIFM directive
Status quo	Domestically regulated EU and non-EU AIFs sold to targeted professional investors through existing domestic private placement regimes	- The AIFM directive could be limited to macro-prudential disclosure rules to mitigate systemic risks and to funds not adequately regulated at domestic level
EU private placement regime for AIFM authorized in the EU	Domestically regulated EU and non-EU AIFs could be sold cross-border to targeted professional investors (limited eg by a number or type of investor, invested amounts) through a common EU private placement regime 2 options to be considered: - Limiting to spontaneous purchase by the investor - Allowing private placement to a limited group of investors Open to AIFM authorized in the EU. Common authorization rules to be defined as well as possible principle based conduct of business and investor information rules at AIFM level. Non EU AIFM would continue to benefit from domestic private placement regimes (tbc)	- Macro-prudential rules would apply to all AIFMs - The micro-prudential, investor protection and cross-border distribution chapters would be replaced by private placement rules applying to AIFMs authorized in the EU wishing to export AIFs to targeted investors with lighter and less specific principle based requirements than the present proposal - This regime should normally replace existing domestic regimes over time for EU AIFM with a possible grandfathering clause for AIFM and AIF benefiting at present from domestic private placement regimes or a delay for switching from domestic rules to these new rules - Domestic supervisors should be informed of private placement offers but cannot prevent distribution of AIF of an EU authorized AIFM
Full passport for EU and non-EU AIFs with regulation at the management company level (located in the EU)	AIFMs located in the EU can actively market EU and non-EU funds in the EU if they comply with AIFM rules Puts EU and non-EU funds on an equal footing	- This would preserve the present scope of the AIFM proposal for EU AIFM - This would replace existing domestic private placement regimes over time
EU passport for EU AIFs with regulation at the management company level (located in the EU)	EU AIFMs can actively market EU AIFs across the whole EU market if they comply with AIFM rules	- This requires micro-prudential and investor protection rules for AIFMs managing cross-border AIFs authorized in the EU - Non-EU funds remain subject to existing domestic private placement regimes - This option could co-exist with existing domestic private placement rules open to non-EU AIF

APPENDIX 2: Pros and cons of the 4 options for cross-border distribution of AIF

Option	Pros	Cons
Status quo	<ul style="list-style-type: none"> - Does not require much change to existing legislation 	<ul style="list-style-type: none"> - The AIFM directive could be limited to macro-prudential disclosure rules to mitigate systemic risks and to funds not adequately regulated at domestic level
EU private placement regime	<ul style="list-style-type: none"> - Would apply to EU and non-EU funds but only for targeted investors - Broadens and simplifies options for EU investors and EU AIFMs who would be submitted to common rules - Simplifies present domestic procedures - Could be a first step open to review and broadening in a second stage to passporting options - Contributes to improve AIFM regulation at EU level - Most AIFM should be able to comply with lighter rules and limited risk of overlap / difference with existing rules 	<ul style="list-style-type: none"> - Limited to targeted investors - Lighter level of harmonization of rules than for a passport - Issue of coherence with existing domestic regimes to be solved
Full passport for EU and non-EU AIFs with regulation at the management company level (located in the EU)	<ul style="list-style-type: none"> - Potentially widens investment options for EU professional investor or least simplifies procedures - Creates new cross-border options for EU AIFMs managing EU and non EU funds - Favours development of EU cross-border market for AIFs - Favours the development of coherent regulation across the EU - Could bring improved investor protection standards at EU level 	<ul style="list-style-type: none"> - Requires complex issues regarding the level of protection brought by non-EU funds and the way to enforce it legally, regulatory equivalence, reciprocity... to be solved - Could possibly require a global consensus to ensure sufficient regulatory equivalence and reciprocity - Difficulty to find a consensus in the market due to the differing interests - Does not favour on-shore AIFs - The potential default of a nonEU fund with inadequate recourse for EU investors could have a strong negative impact on the reputation of the EU fund industry
EU passport for EU AIFs with regulation at the management company level (located in the EU)	<ul style="list-style-type: none"> - Potentially widens investment options for EU professional investor or least simplifies procedures - Favours development of EU cross-border market for AIFs and of on-shore EU AIFs and the creation of a EU brand - Creates new cross-border options for EU AIFMs 	<ul style="list-style-type: none"> - Could result in EU AIFs being subject to stricter rules than non-EU AIFs which would continue benefiting from domestic private placement regimes - AIFMs managing non-EU AIFs could be at a disadvantage



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