

Link'n Learn

AIFMD – 100 day plan



10 April 2014

Leading business advisors

Webinar participants



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100 day plan

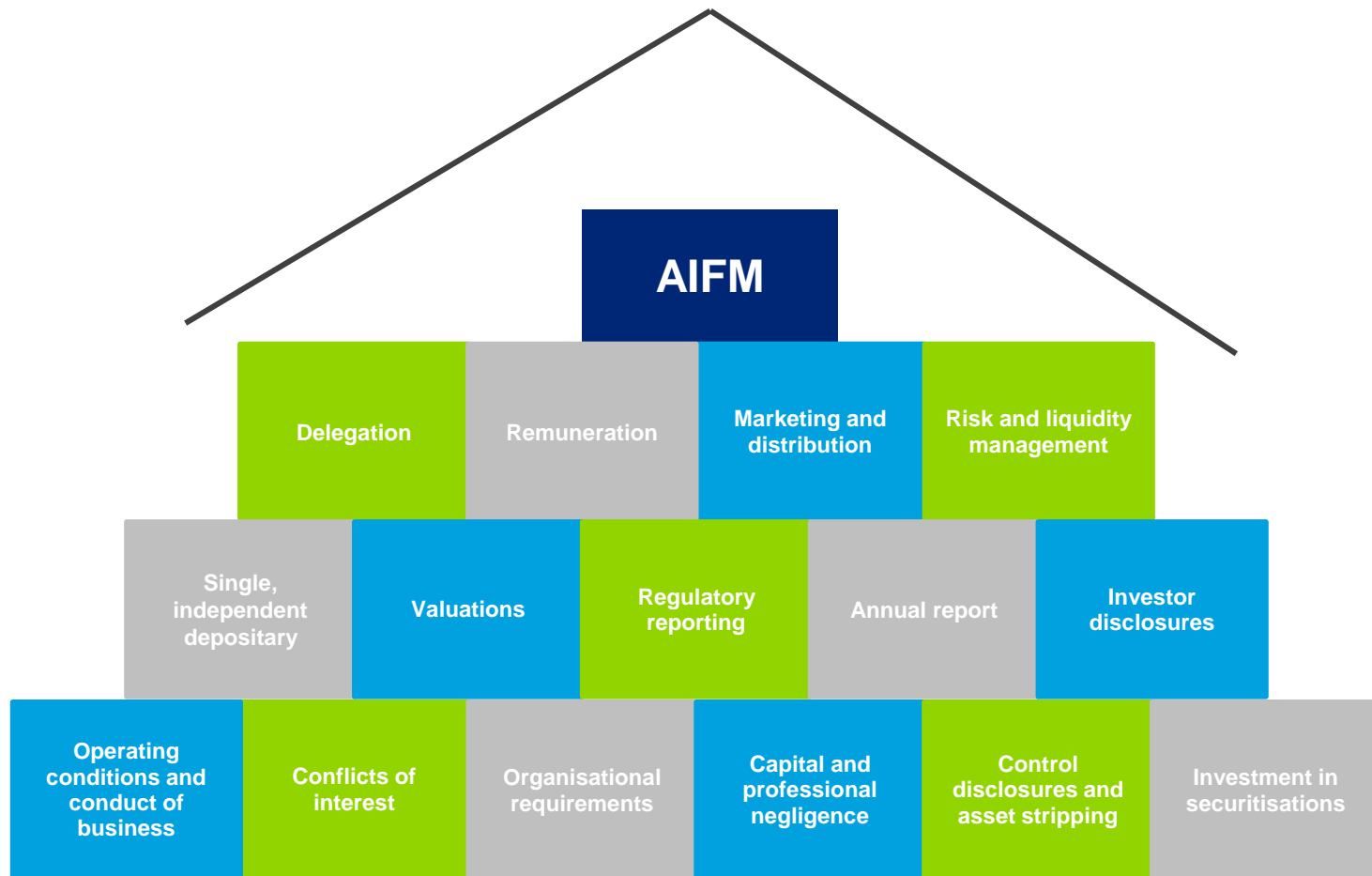
Gaps and focus areas will vary depending on entity type and background



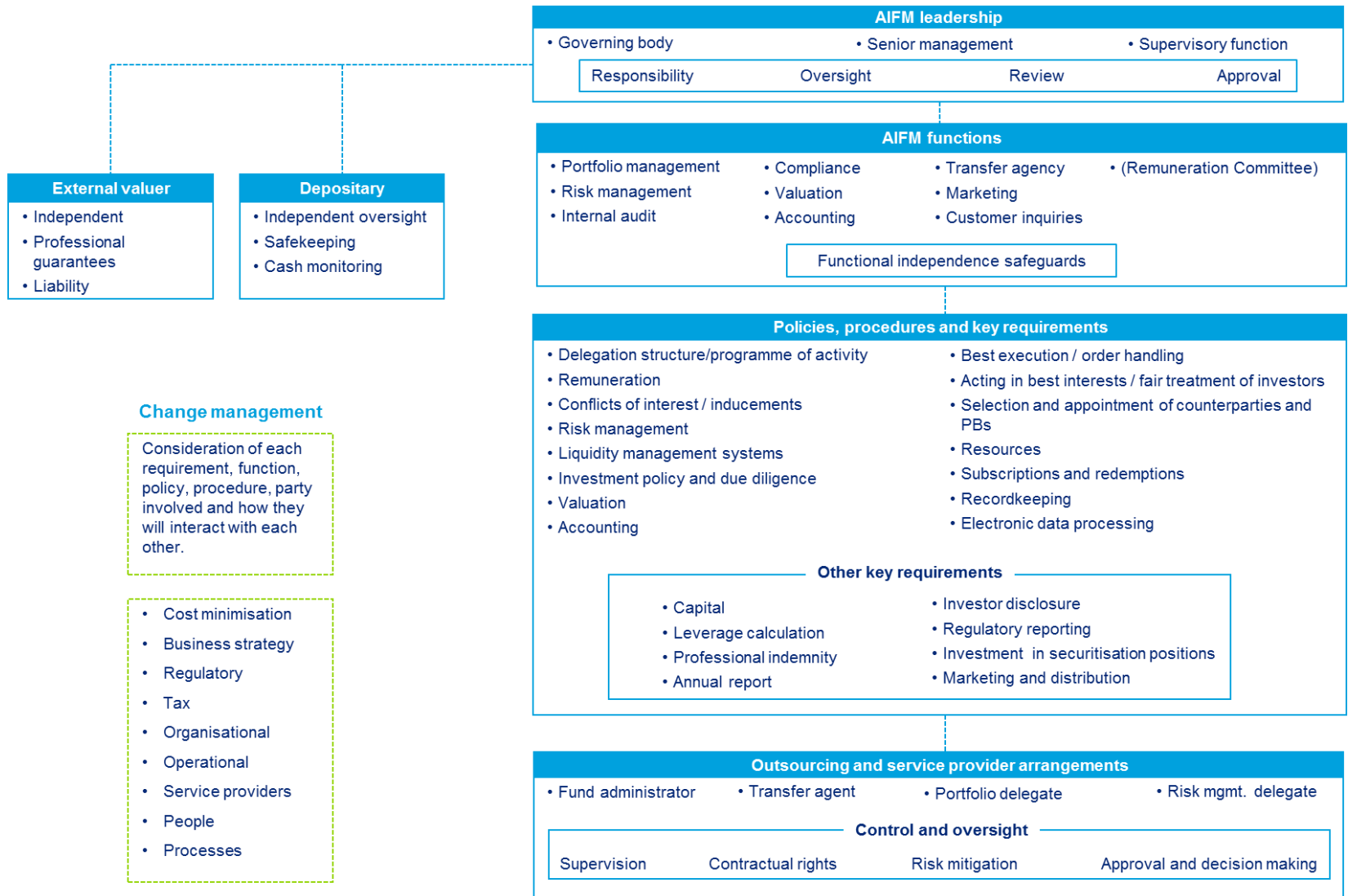
- MiFID entity
- CRD entity
- UCITS ManCo
- Internally managed
- Non-EU parent
- Starting from scratch

100 day plan

AIFM building blocks



Making AIFMD compliance a reality



AIFMD implementation

National considerations

- Definition of an AIF
- Local product impact
- Transitional arrangements
- Application process and approvals
- Marketing
- Non-EU cooperation arrangements
- Passportability of MiFID services
- Treatment of sub-threshold AIFMs
- Regulatory reporting process
- Remuneration
- Substance and delegation

Uncertainties arise in relation to:

- Regulatory reporting
- Remuneration
- Substance and delegation



Key areas which may be subject to further EU level clarifications

Impacts for AIFM functions

Major pitfalls

Compliance

- Planning, implementation and oversight
- Policies and procedures
- Disclosures and reporting
- Outsourcing and delegates
- Contractual arrangements
- Independence safeguards

Risk function

- Functional and hierarchical separation
- What is the risk profile of the AIF?
- Appropriate incentives
- Clear reporting lines

Internal Audit

- Valuation liabilities
- Routes to market
- Leverage

Front office

- Maximum leverage limits
- Investment in securitisation positions
- PE control disclosures and notifications
- Potential depository interaction

AIFMD application process



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- Competent authority approaches
- Supervisory focus
- Timeframes
- Volume of applications
- Difficulties

Delegation



Avoid becoming a “letter box entity”:

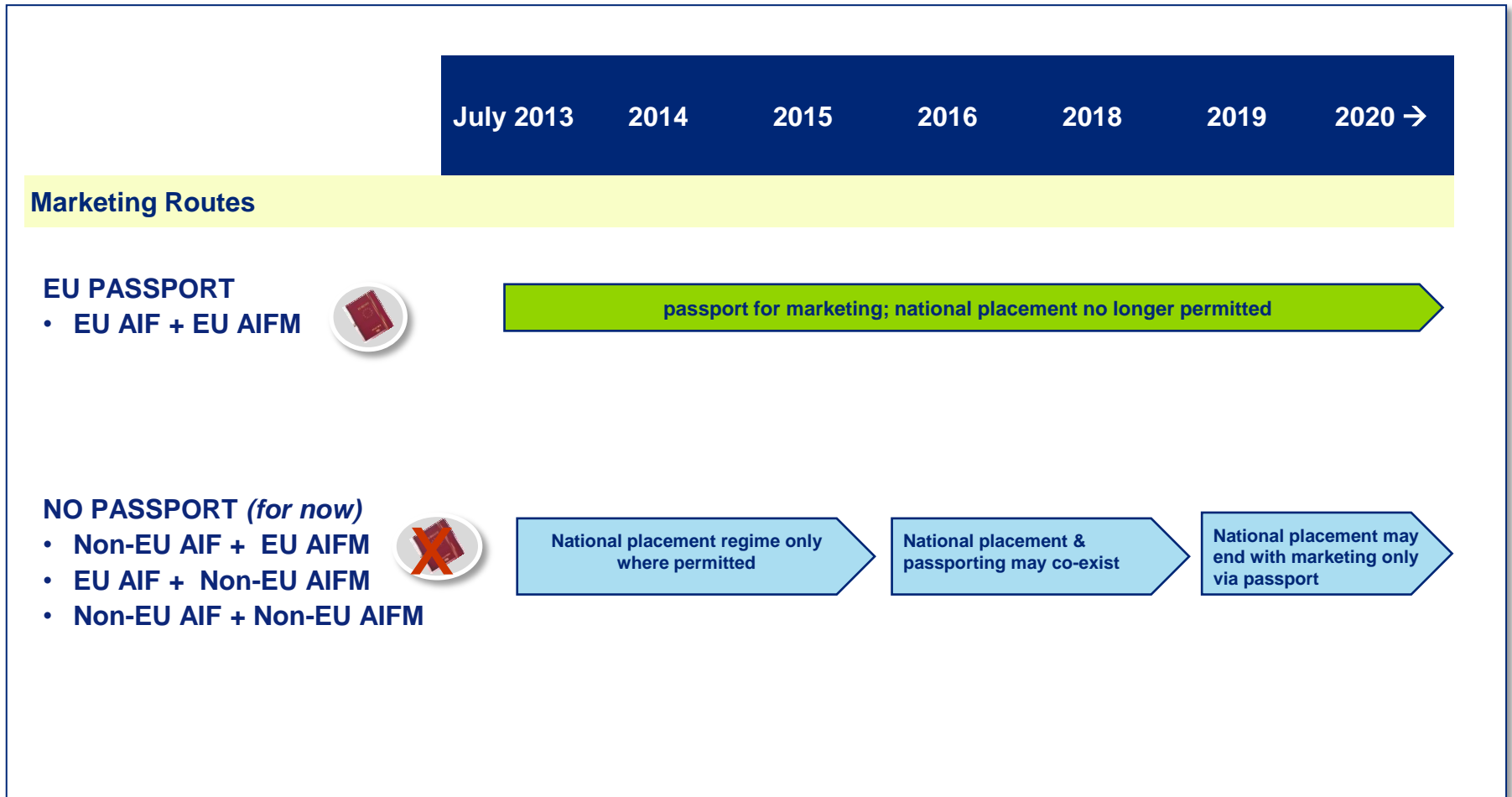
- Maintaining insufficient expertise and resources
- Losing contractual rights
- Unable to mitigate risks of delegation
- Not performing portfolio and/or risk management functions

Evidence robust delegation arrangements through “programme of activity”

- Retain ultimate responsibility, control and oversight
- Focus on decision making, setting parameters, policies, objectives, performance of qualitative activities
- Clear written agreements with delegates
- Document and manage conflicts of interest
- Allocate roles and responsibilities
- Focus on controls, reviews, monitoring, reporting
- More time commitment from the Board/senior management
- Increased Board composition/skills
- More specialist support for the Board

AIFMD Regulatory context (1/2)

Currently two possible marketing routes - with or without passport



AIFMD Regulatory context (2/2)

Currently two possible marketing routes - with or without passport



A. “With the passport”: EU AIF with EU AIFM

- Recital 59 of the AIFM Directive states *EU AIFMs may market EU AIFs to professional investors in the EU only in so far as the AIFM complies with AIFMD and marketing occurs with a passport*
- Hence, for EU AIFs managed by EU AIFMs, only marketing opportunities are via marketing passport



B. “Without the passport”: either AIF or AIFM is not EU

- **Until passporting is available (at the earliest in late 2015), distribution may be possible via “national placement” opportunities if the host state regulator permits such activities**
- Such notifications are not harmonised and are treated on a case-by-case basis in accordance with local rules

EU passporting and AIFMD transposition

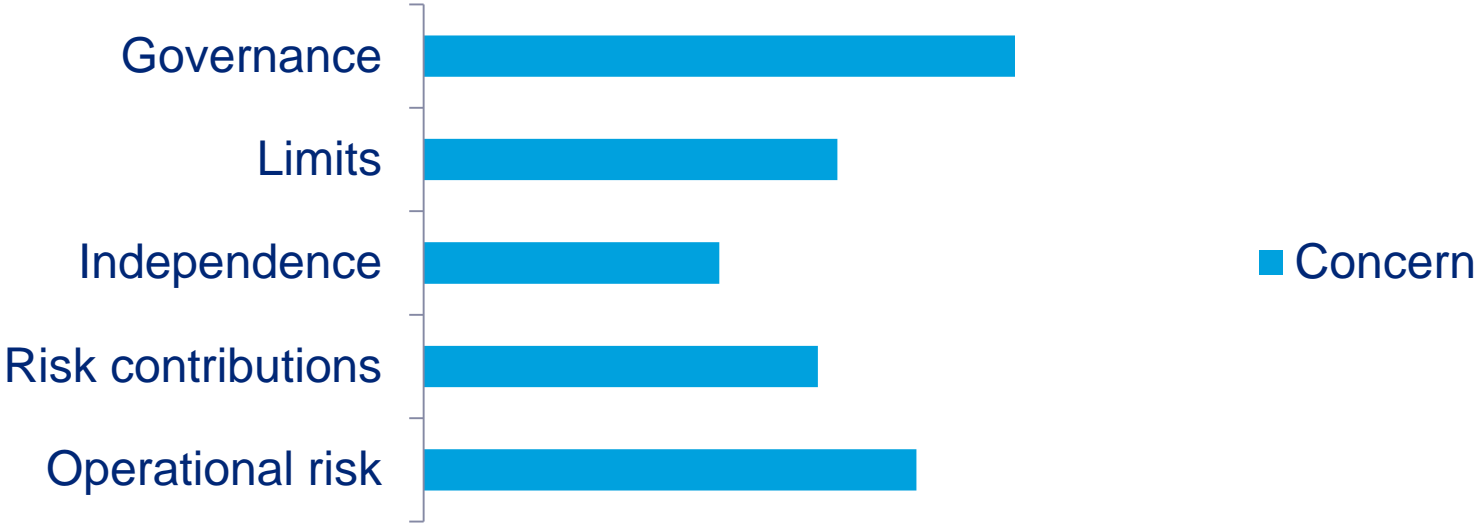
As the transposition of the AIFM Directive is still outstanding in several EU jurisdictions, not all regulators have issued clear AIFMD passporting guidelines

Country	Transposition	Implementation Date*
Austria	✓	5 July 2013
Belgium	✗	delayed
Bulgaria	✓	20 December 2013
Croatia	✓	1 July 2013
Cyprus	✓	5 July 2013
Czech Republic	✓	19 August 2013
Denmark	✓	16 May 2013
Estonia	○	Full transposition pending
Finland	✓	17 March 2014
France	✓	24 July 2013
Germany	✓	16 May 2013
Greece	✓	21 November 2013
Hungary	✗	delayed
Ireland	✓	16 July 2013

Country	Transposition	Implementation Date*
Italy	✗	delayed
Latvia	✓	9 July 2013
Lithuania	✗	delayed
Luxembourg	✓	12 July 2013
Malta	✓	27 June 2013
Netherlands	✓	25 June 2013
Poland	✗	delayed
Portugal	✗	delayed
Romania	○	Full transposition pending
Slovakia	✗	delayed
Slovenia	✓	21 November 2013
Spain	✗	delayed
Sweden	✓	18 June 2013
United Kingdom	✓	16 July 2013

Risk Management

Key concerns



Remuneration

- Determining “identified staff”
- Treatment of delegates
- Detailed remuneration policy
- Governance structure
- Role of the supervisory function
- Rules on variable remuneration
- Payment in units or equivalent
- Remuneration disclosures

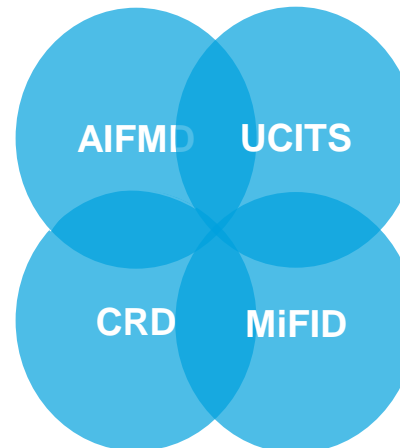
Who has an impact on the risk profile?

Proportionality

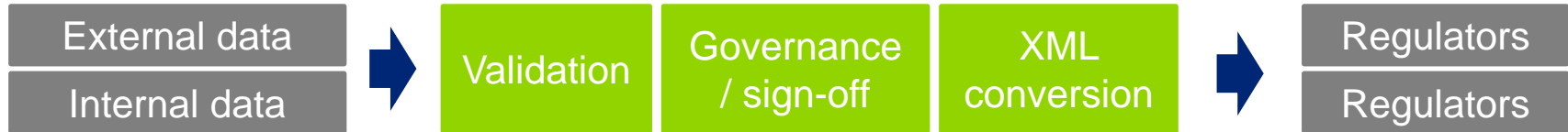
Local guidance

ESMA Q&A

Equivalence?



Regulatory reporting



	AuM	Reporting frequency	Report due by
Reporting start date	–	–	<ul style="list-style-type: none"> • 31 Jan 2014 (Period from 23 Jul 2013 to Dec 2013)
AIFM reporting	<ul style="list-style-type: none"> • < €100 million • < €500 million unleveraged with 5 year lockup period 	<ul style="list-style-type: none"> • Annual 	<ul style="list-style-type: none"> • 30 Jan 2015
	<ul style="list-style-type: none"> • > €100 million to €1 billion 	<ul style="list-style-type: none"> • Half-yearly 	<ul style="list-style-type: none"> • 31 Jul 2014 • 30 Jan 2015
	<ul style="list-style-type: none"> • > €1 billion 	<ul style="list-style-type: none"> • Quarterly 	<ul style="list-style-type: none"> • 30 Apr 2014 • 31 Jul 2014 • 31 Oct 2014 • 30 Jan 2015
AIF specific rules	<ul style="list-style-type: none"> • Each AIF > €500 million 	<ul style="list-style-type: none"> • Quarterly 	<ul style="list-style-type: none"> • As above
	<ul style="list-style-type: none"> • Unleveraged private equity AIF 	<ul style="list-style-type: none"> • Annual 	<ul style="list-style-type: none"> • As above

*The report is due within 30 days of period end.
An extra 15 days is provided for fund of funds.

Regulatory reporting

AIFM level reporting

- AIFM identification information
- Top 5 markets
- Top 5 instruments
- Regulatory AuM
- Detailed list of AIFs

AIF level reporting (Applicable to sub-threshold and regular AIFMs)

- AIF identification information
- Inception date
- Domicile
- Prime brokers
- Base currency
- Top 3 funding sources (by jurisdiction)
- Predominant AIF type
- Breakdown of AIF strategies (dependent on AIF type)
- Top 5 AIF instruments traded
- Geographical focus
- Top 10 exposures of the AIF
- Top 5 portfolio concentrations
- Typical deal/position size
- Principal markets in which the AIF trades
- Investor concentration

Substantially leveraged AIFs

- AIFs employing leverage on a “substantial basis” are AIFs in which the exposure calculated under the ‘commitment approach’ exceed 3 x NAV.
- These AIFs must additionally report the top 5 sources of borrowed cash or securities.

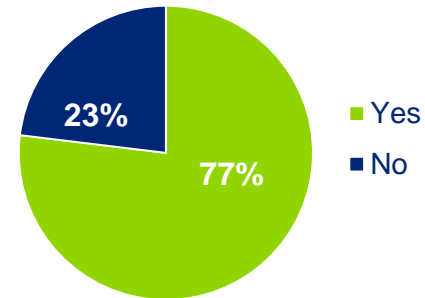
Detailed AIF level

- Instruments traded and individual exposures
- Value of turnover in each asset class
- Total long and short value of exposures
- Dominant influence
- Expected investment return using various risk metrics
- Counterparty risk profile, trading and clearing mechanisms
- Value of collateral and other credit support posted
- Re-hypothecated collateral
- Top 5 counterparties
- Clearing via a central clearing counterparty (CCP)
- Investor liquidity profile
- Value of unencumbered cash
- Investor redemptions
- Special arrangements and preferential treatment
- Investor breakdown
- Financing liquidity
- Value of borrowings
- Value of borrowed securities for short positions
- Gross exposure
- Leverage (as calculated under ‘gross’ and ‘commitment’ approaches)
- Open positions
- Historical risk profile
- Results of stress tests

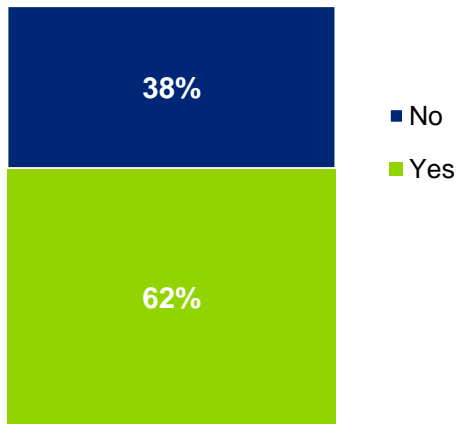
Depository

- Selection process
- Contractual negotiations and pricing
- New duties
- Prime broker relationship
- Due diligence and oversight
- Onboarding readiness

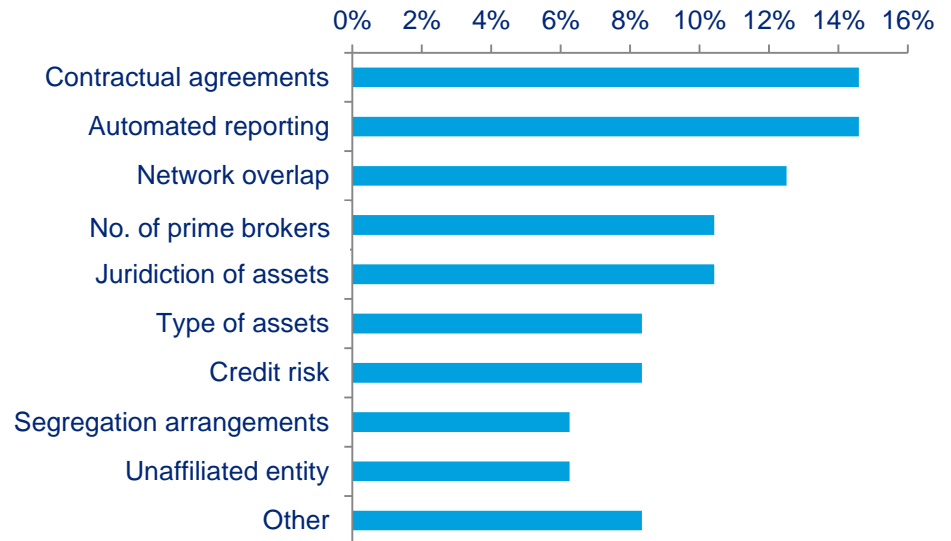
Are you ready for the onboarding of your entire client base by 22 July 2014?



Have you developed a pricing matrix to take account of the new standard of depository liability?



Key depository pricing factors



Fund service providers

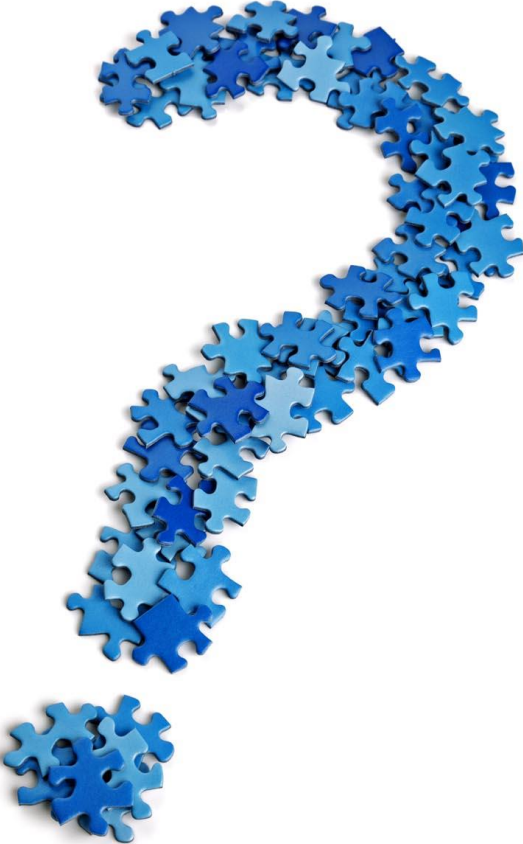
External valuer

- Valuation independence whether external or internal
- AIFM retains responsibility for proper valuation and the calculation of the NAV. The AIFM's liability is not affected by the appointment of an external valuer.
- External valuer key considerations:
 - Mandatory professional registration/ rules on professional conduct/professional guarantees
 - Professional indemnity insurance for any losses suffered by the AIFM, AIF or AIF investors
 - Third party fund administrator calculating NAV only may not necessarily be the "external valuer"

Regulatory reporting

- AIFM retains responsibility
- Establish data sources, static versus dynamic
- Agree on approach to judgement/complex areas such as
 - Regulatory AuM calculation
 - Leverage calculation
 - Exposure and concentration calculations
 - Expected annual investment return
 - Financing liquidity
 - Stress tests and risk data
- Consider member state tracking
- Consider review/validation process

Questions



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