

## Deloitte regulatory news alert

### Update of CSSF AIFM application



On 20 March 2014, the CSSF updated its Q&A on the AIFM application file regarding three main categories: the Programme of activity, the Capital, financial and business information and the Organisational requirements and internal governance.

#### Programme of activity

The Programme of activity has been changed to request information on the level of delegation of activities, licence status for discretionary management and information on investment strategies at the level of sub-funds, if not the same within one AIF.

For AIFs under management that are not included in the application, it is now required to provide an explanation for their exclusion.

Concerning the depositary, additional documentation of compliance with Article 19 of the AIFM directive:

- Draft of the depositary contract(s) or the current status of negotiations;
- Confirmation that the contract includes, at least, all elements listed under Article 83(1) of the Delegated Regulation;
- Confirmation that neither portfolio management nor risk management activities are delegated to the depositary or any sub-depositaries of the AIFs; and
- Letter of confirmation of compliance issued by the depositary and which specifically describes how assets are segregated.

#### Capital, financial and business information

The update confirms that the currency to disclose the total Assets under Management (AuM) is Euro and, in the case of existing entities, the amount of previous years general expenses in Euros is expected to be provided.

Concerning the coverage for professional liabilities, a new appendix is expected which must provide methodologies used for portfolios values calculations which clearly illustrate compliance with the calculation method set in the Delegated Regulation.

Pertaining to the professional indemnity insurance, it is not necessary to disclose the value and percentage of

AuM covered by the policies but rather it is expected to provide the amount of deductibles within insurance contracts.

## Organisational requirements and internal governance

For UCITS ManCos, it is necessary to provide one combined Risk Management Policy (RMP) covering both UCITS and AIFs and clearly indicate where processes differ between AIFs and UCITS. This RMP has to be provided in both clean and track changes version.

With respect to investment in securitisation positions, an additional sub-point, in which it is required to confirm that the AIFM is fully compliant with Articles 51 to 54 of the Delegated Regulation or justification of the lack thereof.

Finally, regarding remuneration, there are two additional sub-points, in which it is required to provide:

- A table comparing each requirements of the AIFM Law with the equivalent clause in the AIFM's actual remuneration policy.
- In case of delegation of activity, the demonstration of how the compliance with the AIFM Law is ensured by the delegates and indication of any other regulatory standards they comply with.

Should you need more information, please do not hesitate to contact our experts.

Kind regards,

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